



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

ORIGINAL

BETH A. NAGUSKY
DIRECTOR
OFFICE OF ENERGY
INDEPENDENCE AND SECURITY

June 28, 2006

MOTION TO INTERVENE and
COMMENTS IN SUPPORT THEREOF

Ms. Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

RE: Application for Preliminary Permit
Kennebec Tidal Energy Hydroelectric Project, FERC # 12666-000
Applicant: Maine Tidal Energy Company


FILED
OFFICE OF THE
SECRETARY
2006 JUN 29 P 4:35
FEDERAL ENERGY
REGULATORY COMMISSION

Dear Secretary Salas,

Enclosed for filing with the Commission are the original and eight copies of the Motion to Intervene and the Maine State Resource Agency Comments in support thereof filed by the Maine State Planning Office in the above-entitled matter, pursuant to your Rules of Practice.

Please note that the Maine Department of Inland Fisheries and Wildlife (DIFW) has not provided comments here but may have specific interests and recommendations with respect to wildlife as site specific issues and prospective development details become available. Early consultation with DIFW is recommended for the applicant to identify wildlife occurrence, habitat information and potential management concerns. Maine DIFW has jurisdiction under the Maine Endangered Species Act and the Identification of Significant Wildlife Habitats under the Maine Natural Resources Protection Act.

Thank you for your attention to these documents filed by the State of Maine.

Sincerely,

Betsy Elder
Hydropower Coordinator
SPO/OEIS

Enclosure

cc: Mr. Charles Cooper- TRC Environmental
Mr. Joseph Cannon- Pillsbury Winthrop
FERC Coordinating Committee

COMMENTS

BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Maine Tidal Energy Company, Kennebec Tidal Energy Hydroelectric
Project- FERC # 12666-000
(Applicant) (Project Name and FERC Number)

Preliminary Permit
(Application Type)

MOTION TO INTERVENE
June 28, 2006

The Maine State Planning Office, in response to the Application for Preliminary Permit filed by Maine Tidal Energy Company, hereby moves to intervene in the above-captioned proceeding pursuant to Rule 214, 18 C.F.R. §385.210, .211, .214 of the Commissions Rules of Practice. The grounds for this motion are as follows:

1. The Maine State Planning Office (SPO) is an agency of the State of Maine, with offices in Augusta, Maine. The SPO consists of the Director of State Planning and her staff. Pursuant to the authority granted by Executive Order #13 FY86/87, the SPO is responsible for coordinating the State agency consultation for Federal Hydropower Licenses and Exemptions in the State of Maine. The SPO is also responsible for the development of a consistent State position in Federal licensing and relicensing proceedings and for intervening on the State's behalf in all FERC licensing proceedings for hydropower projects in Maine.
2. The Maine Department of Environmental Protection (DEP) is an agency of the State of Maine, with principal offices in Augusta, Maine. DEP consists of the Board of Environmental Protection (the Board), the Commissioner of Environmental Protection and her staff. (38 MRSA § 341, *et. seq.*) DEP is responsible for administering and enforcing the Maine Waterway Development and Conservation Act (MWDCA), 38 MRSA §§630-636, in organized municipalities of the State. The decisions made by the DEP on this application and the terms and conditions contained therein, shall represent the official position of the State of Maine regarding this project.
3. By the authority granted in Executive Order #16 FY91/92, the DEP is also responsible for certifying compliance with applicable water quality standards pursuant to Section 401 of the Clean Water Act, P.L. 92-500 (as amended) 33 U.S.C. §1341 (1988), for organized municipalities of the State. In order to approve a certification under the Clean Water Act, DEP must find that there is a

reasonable assurance that the proposed activity will not violate applicable Water Quality Standards. A water classification system establishing such standards has been adopted by the State and has been duly approved by the U.S. Environmental Protection Agency pursuant to the provisions of the Clean Water Act.

4. The Land Use Regulation Commission (LURC) is an agency of the State of Maine and a commission that consists of the Commissioner of LURC and seven public members, 12 MRSA § 683, *et seq.* LURC and its staff are responsible for implementing zoning and sub-division control in the unorganized and de-organized townships of the State. The Commission was established to preserve public health, safety, general welfare, ecological and natural values in these areas and to prevent inappropriate development or intermixing of residential, recreational, commercial and industrial uses detrimental to the value of these areas; to provide and encourage sound land use planning; to prevent the development of substandard structures or structures located unduly proximate to waters or roads, to prevent despoliation, pollution and inappropriate uses of the water in these areas.
5. In addition to the responsibilities described in paragraph 4, LURC is responsible for administering and enforcing the Maine Waterway Development and Conservation Act (MWDCA), 38 MRSA §§630-636, in unorganized and de-organized townships of the State, by the authority granted in Executive Order #16 FY91/92, LURC is also responsible for certifying compliance with applicable water quality standards pursuant to Section 401 of the Clean Water Act, P.L. 92-500 (as amended) 33 U.S.C. §1341 (1988), for unorganized and de-organized townships of the State. In order to approve a certification under the Clean Water Act, LURC must find that there is a reasonable assurance that the proposed activity will not violate applicable Water Quality Standards. A water classification system establishing such standards has been adopted by the State and has been duly approved by the U.S. Environmental Protection Agency pursuant to the provisions of the Clean Water Act.
6. The 401 Water Quality Certificate (pursuant to the Clean Water Act) for the Kennebec Tidal Energy Hydroelectric Project and the decision by the DEP on this application is pending. The terms and conditions contained therein, shall represent the official position of the State of Maine regarding this project.
7. The Department of Marine Resources (DMR) is an agency of the State of Maine with principal offices in Hallowell, Maine. 12 MRSA §6001, *et seq.* DMR was established to regulate, conserve and develop marine and estuarine resources, to conduct and sponsor scientific research, to promote and develop marine coastal industries, to advise and cooperate with state, local and federal officials concerning activities in coastal waters and to implement, administer and enforce the laws and regulations necessary for these purposes.


8. The Department of Inland Fisheries and Wildlife (IFW) is an agency of the State of Maine with principal offices in Augusta, Maine. 12 MRSA §7001, et.seq.. IFW is responsible for the administration and enforcement of inland fisheries and wildlife laws and for the management of all inland fish and wildlife in the State.

9. The Atlantic Salmon Commission (ASC) is a board that consists of the Commissioner of DMR or his designee, the Commissioner of IFW or his designee, and an at-large public member appointed by the Governor of Maine, subject to review by the joint standing committee of the Maine Legislature having jurisdiction over fisheries and wildlife matters and to confirmation by the Maine Senate who must be well informed on the subject of Atlantic salmon and its conservation. 12 MRSA § 9901-9902, A, C, et.seq.. The Commission was established to undertake projects in research, planning, management, restoration and propagation of the Atlantic sea-run salmon in the State of Maine.

10. The Department of Conservation (DOC) is an agency of the State of Maine with principal offices in Augusta, Maine. 12 MRSA §5011-5012, et.seq.. DOC is responsible for the review of FERC licensed hydropower projects to ascertain the *adequacy of recreational facilities, the adequacy of flow releases for boating and canoeing* and the effects of projects on publicly-owned lands or private lands if available for public recreation.

11. *The participation of the SPO in this proceeding is necessary to represent these state agency interests and the public interest of the citizens of Maine. Absent the State's participation in these proceedings, that public interest will not be represented. Currently there are no parties to this proceeding who are able to represent the State of Maine's interest in this matter. The SPO is responsible for the inter-governmental coordination of state level planning activities with a goal of comprehensive planning. The SPO is also responsible for intervening on behalf of the State in all FERC licensing proceedings for projects in Maine and represents the natural resource agencies described above in support of this motion. WHEREFORE, the Maine State Planning Office respectfully requests that this motion to intervene be granted.*

MAINE STATE PLANNING OFFICE



Martha C. Freeman, Director
June 28, 2006
Maine State Planning Office
State House Station #38
184 State Street
Augusta, Maine 04333
207-287-3261

CERTIFICATE OF SERVICE

I, Betsy Elder, the hydropower coordinator of the Maine State Planning Office, hereby certify that I have this day, June 28, 2006, served copies of the foregoing document to each of the applicants, listed below, by United States mail, postage prepaid:

**Mr. Joseph A. Cannon
Pillsbury Winthrop Shaw Pittman LLP,
2300 N. Street, N.W.
Washington, D.C. 20037
202-663-8000**

**Mr. Charles B. Cooper
TRC Environmental,
Boott Mills South
116 John Street
Lowell, Mass. 01852
978-656-3567**



STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

JOHN ELIAS BALDACCI
GOVERNOR

BETH A. NAGUSKY
DIRECTOR
OFFICE OF ENERGY
INDEPENDENCE AND SECURITY

COMMENTS
June 28, 2006

FILED
OFFICE OF THE
SECRETARY
2006 JUN 29 P 1: 35
FEDERAL ENERGY
REGULATORY COMMISSION

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

RE: Application for Preliminary Permit
Kennebec Tidal Energy Hydroelectric Project, FERC No. 12666-000

Dear Secretary Salas:

In response to FERC's May 2, 2006 Notice of Acceptance for Filing of the Application for Preliminary Permit by Maine Tidal Energy Company for the proposed Kennebec Tidal Energy Hydroelectric Project, FERC# 12666, to be located in the Kennebec River between Chops Point and West Chops Point in the City of Bath and Town of Woolwich in Sagadahoc County, Maine, we wish to make the following comments.

We understand that the proposed project would consist of up to 50 Tidal In- Stream Energy Conversion (TISEC) devices installed in one or more clusters in approximately 25 to 100 feet of water. Each TISEC device would consist of rotating propeller blades approximately 20 to 50 feet in diameter, an integrated generator with an installed capacity of from 0.5 to 2.0 MW, anchoring systems, mooring lines to an anchor on the river bottom and an interconnection transmission line to shore.

Tidal power that relies on in-stream energy conversion devices is a relatively new and exciting potential energy resource. Over the past couple of years Maine has been involved in a study with Electric Power Research Institute, funded in part by the Maine Technology Institute, to evaluate engineering and economic feasibility of tidal developments in North America, including Maine's coast. This study has concluded that Maine has a significant tidal power resource. However, it is our understanding that the proposed TISEC devices are not yet commercially available nor have they been demonstrated in the field to be technically or economically feasible. As a result, the impact of multiple underwater tidal power generating units on public uses, marine and other natural resources has not yet been evaluated. Because of this, the State will require that all appropriate technical and environmental testing and analysis be conducted with the TISEC devices before a commercial tidal energy project of this scale could be approved or constructed in Maine waters.

As a general policy, the State of Maine encourages development of renewable and indigenous power resources. The State will promote tidal power development at appropriate sites by developers who have the requisite technical and financial capability, and the intention, to implement economic and environmentally appropriate tidal power proposals. We understand that because of incentives available through the Federal Energy Policy Act of 2005, and state renewable portfolio standards, filing on attractive tidal sites holds new promise for private developers. The State has a strong interest in insuring that any developer who gains exclusive rights to a tidal power site for three years through issuance of a preliminary permit is serious about

and has the ability to carry out all necessary studies and field testing. The State needs assurance that applicants for preliminary permits have the technical and financial resources to do what they are proposing, and are not simply seeking to exclude other potential developers from potentially good tidal power sites. Prospective developers should be required to provide proof of their financial and technical capacity to follow through with their intentions.

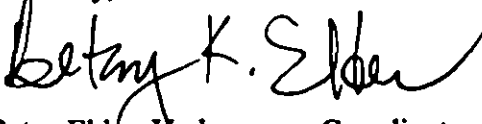
The EPRI study mentioned above encourages pilot scale projects to demonstrate the technical, economic and environmental feasibility of the tidal in-stream electric conversion (TISEC) devices. Pilot demonstrations may reduce uncertainties in performance, reliability, cost and servicing requirements.

Furthermore, the tidal zone is in the public domain; therefore, the State must ensure that allocation of tidal development rights to private entities take the public interest into account. The site under consideration by the Maine Tidal Energy Company in this proceeding raises certain concerns. The Lower Kennebec River from Bay Point in Georgetown to Augusta, including the proposed project area, is listed as an "A" River in the 1982 Maine Rivers Study, which is part of the State of Maine's FERC-approved Comprehensive Rivers Management Plan. Rivers and related corridors on the "A" list have been found to possess a composite natural and recreational resource value with greater than state significance. The significant resource values of the Lower Kennebec River include: unique riverine geologic, hydrologic, ecologic features and critical areas, including significant bald eagle habitat; scenic character; anadromous fisheries; and National Historic Landmarks and Register Sites.

The applicant should be asked to investigate the impacts of the construction and operation of the proposed tidal power project on these significant resource values. Study of competing uses and economic impacts should be examined thoroughly before issuance of a preliminary permit for tidal development in the Chops Point and West Chops Point area.

Additionally, we request that study of navigation issues in the area be conducted. Thank you for this opportunity to comment. Any questions regarding these comments may be directed to me at the following location and number.

Sincerely,



Betsy Elder, Hydropower Coordinator, Senior Planner
Maine Office of Energy Independence and Security
State House Station #18, Augusta, Maine 04333
207-287-8927 Betsy.Elder@maine.gov

Cc: FERC Review Coordinating Committee



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

COMMENTS

June 20, 2006

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

RE: Application for Preliminary Permit
Kennebec Tidal Energy Hydroelectric Project
FERC No.12666-000

Dear Secretary Salas:

This is in response to FERC's May 2, 2006 Notice of Acceptance for Filing of the Application for Preliminary Permit filed by Maine Tidal Energy Company for the proposed Kennebec Tidal Energy Hydroelectric Project, FERC No. 12666, to be located in the Kennebec River between Chops Point and West Chops Point in the City of Bath and Town of Woolwich, Sagadahoc County, Maine.

The proposed project would consist of up to 50 Tidal In Stream Energy Conversion (TISEC) devices installed in one or more clusters in approximately 25 to 100 feet of water. Each TISEC device would consist of (1) rotating propeller blades, approximately 20 to 50 feet each in diameter, (2) an integrated generator with a capacity of 0.5 MW to 2.0 MW, (3) anchoring systems, (4) a mooring line to an anchor on the river bottom, and (5) an interconnection transmission line to shore.

The installation and operation of the proposed tidal power project is subject to approval by the Maine Department of Environmental Protection under the State's one-stop hydropower permitting law (the Maine Waterway Development and Conservation Act) and under Section 401 of the Clean Water Act.

We would advise the applicant to make timely contact with the Maine DEP in order that the State regulatory system may be discussed and that any specific environmental issues arising from conceptual plans for project construction and operation may be identified and addressed by the applicant during the term of any preliminary permit that is issued for the project.

We note that the proposed TISEC devices are not yet commercially available and that, as a consequence, the technical and economic feasibility of these devices has not been demonstrated in the field. We also note that the impact of multiple underwater tidal power generating units on

Letter to Magalie R. Salas
Comments RE: FERC No. 12666
June 20, 2006
Page 2 of 2

various environmental resources, including public uses, has not been evaluated. In fact, a June 2006 report titled "Instream Tidal Power in North America Environmental and Permitting Issues," prepared for the Electric Power Research Institute, Inc. (EPRI), states that "there are literally no reports available which provide environmental effects [data] based on monitoring studies of tidal turbines..." Therefore, considerable technical, economic, and environmental analysis must occur before a commercial-scale tidal energy project can be constructed.

The waters in the project area are currently classified as Class B (north of a line drawn from Chops Point to West Chops Point) and Class SB (south of a line drawn from Chops Point to West Chops Point). These waters must meet numeric standards for dissolved oxygen and narrative standards for aquatic habitat and must be suitable for various designated uses including fishing, recreation in and on the water, navigation, and as habitat for fish and other aquatic life.

We therefore would advise the applicant to investigate the impacts of the construction and operation of the proposed tidal power project on the ability of the State's waters to meet their assigned water quality standards.

The Lower Kennebec River from Bay Point in Georgetown to Augusta, including the proposed project area, is listed as an "A" River in the 1982 Maine Rivers Study, which is part of the State of Maine's FERC-approved Comprehensive Rivers Management Plan. Rivers and related corridors on the "A" list have been found to possess a composite natural and recreational resource value with greater than state significance. The significant resource values of the Lower Kennebec River are: river related geologic/hydrologic features; river related critical/ecologic areas and features, including significant bald eagle habitat; scenic character; anadromous fisheries; and National Historic Landmarks and Register Sites. We therefore would advise the applicant to investigate the impacts of the construction and operation of the proposed tidal power project on these significant resource values.

Thank you for this opportunity to comment. Any questions regarding these comments may be directed to the undersigned at 207-287-7784.

Sincerely,



Dana Paul Murch
Dams & Hydro Supervisor,
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333

cc: FERC Review Coordinating Committee



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

GEORGE D. LAPOINTE
COMMISSIONER

June 23, 2006

Magalie Roman Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

FILED
OFFICE OF THE
SECRETARY
2006 JUN 29 P 4: 35
FEDERAL ENERGY
REGULATORY COMMISSION

REF: Application for Preliminary Permit
Kennebec Tidal Energy Hydroelectric Project (FERC. No. 12666-000)

Dear Secretary Salas:

The Maine Department of Marine Resources (MDMR) is writing in response to the *Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments* for the Kennebec Tidal Energy Hydroelectric Project (FERC No. 12666-000) that was issued by the Federal Energy Regulatory Commission on May 2, 2006. The proposed project would be located in the Kennebec River between Chop's Point and West Chops Point in Sagadahoc County, Maine, and would consist of up to 50 Tidal In-Stream Energy Conversion (TISEC) devices.

MDMR is a cabinet level agency of the State of Maine. MDMR was established to regulate, conserve, and develop marine, estuarine, and diadromous fish resources; to conduct and sponsor scientific research; to promote and develop marine coastal industries; to advise and cooperate with state, local, and federal officials concerning activities in coastal waters; and to implement, administer, and enforce the laws and regulations necessary for these purposes. MDMR is the lead state agency in the restoration and management of diadromous (anadromous and catadromous) species of fishes other than sea-run Atlantic salmon, which are managed under the authority of the Maine Atlantic Salmon Commission (MASC).

MDMR has serious concerns about the proposed project. The Kennebec River is the site of the most comprehensive and seemingly successful diadromous fish restoration program in the State of Maine. The Kennebec River currently supports populations of all 12 native species of diadromous fishes, including one species listed as endangered (shortnose sturgeon), three species undergoing status review (Atlantic sturgeon, American eel, Atlantic salmon), and Maine's only known resident spawning population of striped bass. Adults of all these species must migrate through the proposed project location during spawning migrations, and juveniles must migrate through the same area



RENEWABLE ENERGY

OFFICES AT STEVENS SCHOOL COMPLEX, HALLOWELL

PHONE: (207) 624-6550

TTY: (207) 287-4474

<http://www.maine.gov/dmr>

FAX: (207) 624-6024

Magalie Roman Salas
June 23, 2006
Page 2

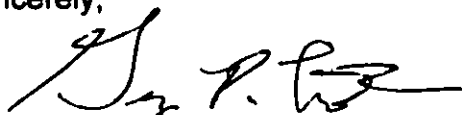
to reach nursery and/or growth habitat. Several of the species have benthic habits, and even pelagic species like Atlantic salmon often make periodic vertical excursions through the water column.

It is our understanding that the proposed TISEC devices are not yet commercially available, the technical and economic feasibility of these devices has not been demonstrated in the field, and the impact of multiple underwater tidal power generating units on environmental resources has not been evaluated. According to a June 2006 report titled "Instream Tidal Power in North America Environmental and Permitting Issues," prepared for the Electric Power Research Institute, Inc., "there are literally no reports available which provide environmental effects [data] based on monitoring studies of tidal turbines..."

Given the lack of information about this new technology, considerable technical, economic, and environmental analysis must occur before a commercial-scale tidal energy project can be constructed. We advise the applicant to make timely contact with the Maine DMR to discuss the environmental issues that will need to be addressed by the applicant during the term of any preliminary permit that is issued for the project.

If you have any questions, please contact Gail Wippelhauser at 207-624-6349.

Sincerely,



George D. Lapointe
Commissioner



STATE OF MAINE
DEPARTMENT OF CONSERVATION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

JOHN ELIAS BALDACCI
GOVERNOR

PATRICK K. MCGOWAN
COMMISSIONER

June 22, 2006

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First St., N.E., Room 1A
Washington, DC 20426

FILED
OFFICE OF THE
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2006 JUN 29 P 4:35
FEDERAL ENERGY
REGULATORY COMMISSION

Subject: DOCKET No. P-12666-000, Kennebec Tidal Energy Project
Notice of Preliminary Permit Application and Request for Comments

Dear Secretary Salas:

In response to the above cited notice, the Maine Department of Conservation, Bureau of Parks and Lands offer the following comments.

The Bureau of Parks and Lands serves as the State agency responsible for the management of public submerged lands extending from the mean low water line of tidal waters seaward to Maine's 3-mile territorial limit and tidal rivers upstream to the farthest natural reach of the tides. Private development on these lands requires a conveyance from the State to provide a limited legal interest in the project site for the purpose of environmental permitting, project construction, and operation of the facility. Submerged lands conveyances are authorized upon a finding that the proposed development will not unreasonably interfere with customary or traditional public access ways to or public trust rights in, on, or over the submerged lands and waters above those lands. The Bureau may refuse to lease submerged lands, or place conditions on the conveyance to address public trust concerns, or require compensation for loss of public trust rights or access.

As described, the first phase of the project under the proposed 3-year preliminary permit appears to include installation of a pilot tidal in stream energy conversion (TISEC) device and associated components in the area of West Chops Point on the Kennebec River. If this in-stream study extends for more than 7 months, a conveyance will be required from the Bureau of Parks and Lands. The submerged lands conveyance, if approved, would be limited to the immediate area of the proposed installation, not the entire study area. This would also be the case, if the project proceeds at some point in the future to full development of an in-stream turbine field.

An environmental assessment of the proposed site should also include bottom sediments and the potential for scour, current flow alteration, and the potential for erosion or alterations to the shoreline, intertidal flats, or adjacent marshes. The project area should also be assessed for mineral resources on submerged lands, including sands, gravels, and other economically valuable minerals that might be excluded from future extraction if the area is developed for hydropower.

BUREAU OF PARKS AND LANDS
DAVID J. SOUCY, DIRECTOR



www.maine.gov/doc
PHONE: (207) 287-3821
FAX: (207) 287-6170
FAX: (207) 287-8111
TTY: (207) 287-2213

Finally, the Bureau supports ongoing research in alternative energy sources such as tidal power, and the potential development of this technology on the Maine coast. Our primary concern is that as these projects become commercially viable, they are also designed and sited to minimize potential impacts on public resources and to ensure that other existing uses and access to these waterways are preserved as much as possible.

Sincerely,



Dan Prichard
Submerged Lands Program
Bureau of Parks and Lands

Cc: FERC Review Coordinating Committee



John Elias Baldacci
Governor

State of Maine
Atlantic Salmon Commission

650 State Street
Bangor, Maine 04401
Telephone: (207) 941-4449
www.maine.gov/asc



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JUN 29 P 4: 35
Patrick C. Kelton
Executive Director
FEDERAL ENERGY
REGULATORY
COMMISSION

June 14, 2006

The Honorable Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**REF: COMMENTS - Kennebec Tidal Energy Hydroelectric Project (FERC No. 12666)
Maine Tidal Energy Company**

Dear Secretary Salas:

The Maine Atlantic Salmon Commission (MASC) is responding to the Federal Energy Regulatory Commission's (FERC) Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments issued May 2, 2006 for a preliminary permit for the Kennebec Tidal Energy Hydroelectric Project (FERC No. 12666-000).

Maine Tidal Energy Company is proposing the installation of 50 Tidal In Stream Energy Conversion (TISEC) devices consisting of rotating propeller blades, integrated generators with a capacity of 0.5 to 2.0 MW, anchoring systems, mooring lines, and interconnection transmission lines. The project, located between Chops Point and West Chops Point, is estimated to have an annual generation of 8.76 gigawatt-hours per unit per year.

The Gulf of Maine Distinct Population Segment (DPS) of Atlantic salmon is listed as endangered under the federal Endangered Species Act (ESA). The Atlantic salmon DPS encompasses all naturally reproducing remnant populations of Atlantic salmon from the Kennebec River downstream of the former Edwards Dam site northward to the mouth of the St. Croix River. The DPS includes extant populations of Atlantic salmon in the Dennys, East Machias, Machias, Pleasant, Narraguagus, Ducktrap, and Sheepscot rivers and Cove Brook. The proposed project is located within the range of the DPS and thus has the potential to affect the listed population.

The Kennebec River estuary serves as a migration corridor for listed Atlantic salmon as well as a migration corridor for Atlantic salmon populations outside of the DPS, namely those populations of Atlantic salmon from the Kennebec River and its tributaries located above the Edwards Dam site as well as the Androscoggin River and its tributaries. Atlantic salmon utilize the Kennebec estuary when emigrating in the spring as smolts and in the spring through fall when returning as adults. Typically, Atlantic salmon smolts begin emigrating from the Kennebec and Androscoggin rivers in mid-April. Returning adults typically enter freshwater from mid-April through early November. Structures that obstruct or delay Atlantic salmon migrations and/or injure or kill Atlantic salmon will adversely affect Atlantic salmon populations, including the Gulf of Maine DPS of Atlantic salmon.

We encourage Maine Tidal Energy Company to consult with MASC as we will need additional information concerning the types of devices that are planned for installation as well as operating regimes and schedules for this project in order to evaluate the possibility that the devices could injure or kill Atlantic salmon or serve as an attractant or repellent to migrating Atlantic salmon.

This constitutes our comments at this time. We appreciate the opportunity to comment on FERC's Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments for the Kennebec Tidal Energy Hydroelectric Project.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman R. Dubé". The signature is written in a cursive style with a large initial 'N'.

Norman R. Dubé
Fisheries Scientist

cc: State FERC Coordinating Committee
Gordon Russell, USFWS
Sean McDermott, NOAA
Jeff Murphy, NOAA