

January 5, 2024

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: 2023 Penobscot River Incidental Take Annual Report

Dear Secretary Bose:

On behalf of the licensees for the Projects listed below, Black Bear Hydro Partners, LLC (Black Bear) is filing the attached annual report, which was submitted to the National Marine Fisheries Service (NMFS) on January 5, 2024 pursuant to its August 31, 2012 Biological Opinion issued under section 7(a)(2) of the Endangered Species Act for these Projects:

- **Milford Project (FERC No. 2534)**, licensed to Black Bear
- **West Enfield Project (FERC No. 2600)**, licensed to Bangor-Pacific Hydro Associates
- **Medway Project (FERC No. 2666)**, licensed to Black Bear
- **Orono Project (FERC No. 2710)**, licensed to Black Bear; Black Bear SO, LLC; and Black Bear Development Holdings, LLC
- **Stillwater Project (FERC No. 2712)**, licensed to Black Bear, LLC; Black Bear SO, LLC; and Black Bear Development Holdings, LLC

The Commission's March 27, 2014 "*Order Modifying and Approving Revised Species Protection Plan and Revised Atlantic Salmon Passage Study Plan*" stated (in paragraph 31) that the Commission would continue to accept reports related to NMFS's Biological Opinion for these Projects, specifically in regards to Reasonable and Prudent Measure #4 for incidental take. As further required by the Commission's March 27, 2014 Order, an annual report on the studies performed pursuant to the Species Protection Plan and Atlantic Salmon Passage Study Plan for these Projects will be submitted to the Commission by March 30, 2024.

Please do not hesitate to contact me by e-mail at kevin.bernier@brookfieldrenewable.com or by phone at (207) 951-5006 if you have any questions.

Sincerely,

Kevin Bernier

Kevin Bernier
Senior Compliance Specialist

Attachment

CC: R. Dorman, R. Dill, D. Bates, C. Goodhart, S. Michaud, B. Brochu, S. Farrington, S. Hill,
R. Smith, D. Heidrich; Black Bear
J. Murphy, D. Tierney; NMFS

Black Bear Files: Black Bear/Licensing & Compliance/2534/1; 2600/1; 2666/1; 2710/1; 2712/1

BLACK BEAR HYDRO PARTNERS LLC

January 5, 2024

Section 7 Coordinator
NMFS Protected Resources Division
55 Great Republic Drive
Gloucester, MA 01930

Re: Penobscot River Hydro Projects; 2023 Incidental Take Annual Report

Section 7 Coordinator:

On behalf of the owners and licensees¹ for the Stillwater, Orono, Milford, West Enfield, and Medway Hydroelectric Projects (respectively, FERC Project Nos. 2712, 2710, 2534, 2600 and 2666) located on the Penobscot River in Maine, Black Bear Hydro Partners, LLC (Black Bear) submits this annual report in fulfillment of Terms and Conditions #4b of the Incidental Take Statement (ITS) and Biological Opinion (BiOp) issued by the National Marine Fisheries Service (NMFS) on August 31, 2012 for these Projects (see excerpt below):

4. To implement reasonable and prudent measure #4, the FERC must require that Black Bear do the following:

b. Submit annual reports at the end of each calendar year summarizing the results of proposed action and any takes of listed sturgeon or Atlantic salmon to NMFS by mail (to the attention of Section 7 Coordinator, NMFS Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930) and to incidental.take@noaa.gov.

Shortnose sturgeon

There were no shortnose sturgeon observed at either the Milford or Orono Project fish lifts in 2023.

Atlantic sturgeon

There were no Atlantic sturgeon observed at either the Milford or Orono Project fish lifts in 2023.

Atlantic salmon smolt studies

In consultation with the resource agencies, including NMFS, the licensees did not conduct Atlantic salmon smolt downstream passage studies at any of the referenced Penobscot River Projects in 2023.

¹ Black Bear Hydro Partners, LLC (Black Bear), licensee for the Milford Project; Bangor-Pacific Hydro Associates, licensee for the West Enfield Project; Black Bear SO, LLC and Black Bear Development Holdings, LLC, who, along with Black Bear, are the licensees for the Stillwater and Orono Projects.

Atlantic salmon adult studies

In consultation with the resource agencies, including NMFS, the licensees did not conduct adult Atlantic salmon upstream or downstream passage studies at any of the referenced Penobscot River Projects in 2023.

Atlantic salmon stranding

Milford:

On Monday, August 7th while fish passage and operations staff were installing the Milford upstream eel ramp located atop the ledge outcrop at the center of the dam, a grilse-sized Atlantic salmon was observed in the pool at the top the ledges. This salmon likely ascended the ledges as a result of leakage flow occurring through hinged flash boards in that immediate area, as well as leakage flow through the stop log weir where the eel ramp is installed. Up until the time of the observation, there was ample flow for the salmon to pass back downstream; however, because the leakage flow needed to be stopped to install and operate the eel ramp, the salmon could have then become trapped during the eel ramp installation. Fish passage staff captured the grilse with a large hooped, long-handled net and immediately released it unharmed to the headpond.

West Enfield:

While dewatering the West Enfield upstream fishway on Monday, November 13th, an adult multi-sea winter sized salmon was observed trapped in the fishway pool immediately upstream of the crowder facility. Staff removed the salmon and released it into the West Enfield headpond unharmed.

There were no Atlantic salmon observed stranded at the Orono, Stillwater or Medway Projects in 2023.

Atlantic salmon mortalities

There was one Atlantic salmon mortality reported as incidental take in 2023.

At Milford, an adult Atlantic salmon was recovered from the exit flume of the fish lift facility on Sunday, June 18th. The 71cm long (fork length) multi-sea winter salmon was raked off the punch plate located at the downstream end of the exit flume. The fish had been dead at least a few days based on the stage of decomposition. Some scale loss was noted on both sides of the fish; however, because of the condition of the fish, it could not be determined if this occurred pre or postmortem. The primary fish lift and sorting facility were both operating normally at the time.

The salmon was bagged, labeled, and stored in the Maine Department of Marine Resources freezer located in the sorting facility at the Milford Project.

Please feel free to contact Richard Dill at (207) 951-2438 should you have any questions on this annual report, which is intended to satisfy item 4(b) of section 10.3 (Terms and Conditions) of the ITS and BiOp issued by NMFS for the referenced Projects on August 31, 2012.

Sincerely,

Kevin Bernier

Kevin Bernier
Senior Compliance Specialist

CC: R. Dorman, R. Dill, C. Goodhart, B. Brochu, D. Bates, L. Macomber, S. Michaud,
S. Farrington; Black Bear
J. Murphy, D. Tierney, incidental.take@noaa.gov; NMFS

Black Bear Files: Black Bear/Licensing & Compliance/2534/1; 2600/1; 2666/1; 2710/1; 2712/1