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GOVERNOR

STATE OF MAINE
DEPARTMENT OF
INLAND FISHERIES AND WILDLIFE
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AUGUSTA, MAINE
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ROLAND D. MARTIN
COMMISSIONER

January 10, 2007

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Dear Sirs:

By letter dated October 19, 2006, counsel for the Friends of the Presumpscot River and American Rivers (hereafter referred to as "Friends") requested that the Commissioner of the Maine Department of Inland Fisheries and Wildlife (hereafter the "Department") initiate proceedings for the construction of fish passage at the Cumberland Mills Dam, located on the Presumpscot River in Westbrook, and owned by S.D. Warren Company. Letters in support of this request were filed by the Maine Department of Environmental Protection, the Maine Department of Marine Resources and the Maine Atlantic Salmon Commission. A letter in support was also received from several legislators from Cumberland County. Sappi responded to the request by letter dated December 7, 2006. The Department has carefully considered the issues raised in these letters in reaching a decision.

Pursuant to 12 M.R.S.A. §12760(4), the Department shall initiate proceedings to consider the construction, repair or alteration of fishways in existing dams or other artificial obstructions whenever it determines that one or more of the following conditions may exist:

- A. Fish passage at the dam or obstruction in issue, whether alone or in conjunction with fish passage at other upriver barriers, will improve access to sufficient and suitable habitat anywhere in the watershed to support a



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substantial commercial or recreational fishery for one or more species of anadromous or migratory fish; or

- B. Fish passage at the dam or obstruction in issue is necessary to protect or enhance rare, threatened or endangered fish species.

Based on our review of the available information, the Department has determined that either of these conditions may exist and, as such, is initiating fishway proceedings in accordance with its statutory authority. This will be an adjudicatory proceeding held in accordance with the provisions of the Maine Administrative Procedures Act.

The factors leading to this determination include, inter alia:

- Cumberland Mills Dam is located 9.6 miles upstream of Casco Bay and is currently the lowermost dam on the Presumpscot River.
- There is evidence that the river historically supported self-sustaining populations of several anadromous fish species, including Atlantic salmon, American shad, alewives, blueback herring, rainbow smelt and striped bass.
- Since the removal of the Smelt Hill Dam in 2002, there has been evidence of alewives and American eel present in the river well above the location of the former dam.
- In 2003 the Maine Department of Environmental Protection approved water quality certification for the continued operation of S.D. Warren's five Presumpscot River Hydro Projects (Dundee, Gambo, Little Falls, Mallison Falls and Saccarappa), all of which are located upstream of the Cumberland Falls Dam. In its order approving the water quality certifications the DEP found that the Presumpscot River has the potential to produce significant numbers of blueback herring, alewife, American shad and Atlantic salmon, annually. The DEP also determined that, once fish passage was available at the Cumberland Mills Dam, the installation of fish passage at each of the upstream dams was necessary to ensure that the river was suitable to fishing and as a habitat for fish, and that the river would be of sufficient quality to support all species of fish indigenous to the river.
- The DEP's water quality certification and the hydropower licenses approved by the Federal Energy Regulatory Commission (FERC) require the phased installation of fish passage at each of the dams upstream of the Cumberland Mills Dam.
- In 2001, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Atlantic Salmon Commission developed a

draft comprehensive fishery management plan for the Presumpscot River that includes recommendations for fish passage among the issues to be addressed in order to meet the State's fishery management goals for the river.

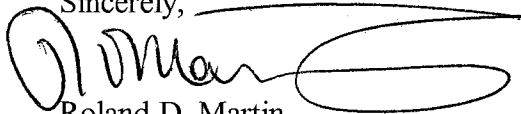
Title 12 M.R.S.A. §12760 provides that a hearing may be requested in a fishway proceeding by interested members of the public or by the dam owner, lessee or other person in control of the dam. Because Sappi has so requested, a public hearing will be scheduled in this matter. The Department will notify you of the hearing date within the next 30 days.

As a preliminary step in this process the Department intends to hold at least one pre-hearing conference with the parties. The purpose of the pre-hearing conference(s) will be to review the hearing procedures and resolve any issues that can be addressed in advance of hearing in order to help the process go as smoothly as possible. The Department will contact you by a separate letter to schedule a conference date.

Please realize that, although the Department has decided to initiate these proceedings, including the requested hearing, all parties are free to continue to pursue a negotiated settlement on their own. In fact, we believe that this should always be considered as a possible productive route. However, the occurrence of any settlement negotiations will not delay the proceedings, which will proceed along a parallel course.

Thank you all for your attention to this important matter.

Sincerely,



Roland D. Martin
Commissioner

cc: United States Environmental Protection Agency
Commissioner, Department of Environmental Protection
Commissioner, Department of Marine Resources
Executive Director, Atlantic Salmon Commission
Karin Tilberg, Dick Davies, Governor's Office
Senator Philip Bartlett
Senator Karl Turner
Representative Mark Bryant
Representative Boyd Marley
Representative John Brautigam
Representative Tim Driscoll
Mark Randlett, Attorney General's Office