

APPENDIX HMC-06  
AGENCY COMMENTS

In response to the e-mail send on 12.January.2009 (Appendix HMC-02), the following comments were received as part of the due diligence process:



JOHN ELIAS BALDACC  
GOVERNOR

MAINE HISTORIC PRESERVATION COMMISSION  
55 CAPITOL STREET  
65 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333

EARLE G. SHETTLEWORTH, JR.  
DIRECTOR

February 2, 2009

Mr. Norman Laberge  
Tidewalker Engineering  
46 Place Cove Road  
Trescott, ME 04652

Project: MHPC 2316-06, FERC P-12704-00, Half Moon Cove Tidal Power, Perry and Eastport

Dear Mr. Laberge:

In response to your recent email request, I have reviewed the information we received January 12<sup>th</sup> to begin consultation on the above referenced project in accordance with Section 106 of the National Historic Preservation Act.

There are two known prehistoric archaeological sites (80.14 and 80.57) very near the proposed northern end of the barrage structure on the Perry shore. In addition, underwater archaeological survey conducted in the cove and Carlow Island area as part of studies for a proposed LNG terminal have provided new information on possibly submerged landforms in the cove. Further archaeological survey for prehistoric sites, and possible historic archaeological sites will be necessary at least in the area of the proposed barrage construction and possibly elsewhere. Please contact Dr. Arthur Spiess of this office if we can be of further assistance in this matter.

Based on the information submitted, I have concluded that additional information is necessary to identify historic above ground properties within the proposed undertaking's area of potential effect (APE). Therefore, in order to determine whether such resources exist, a Section 106-specific architectural survey will need to be completed in accordance with our survey guidelines and associated forms, which are both downloadable from our website: [www.maine.gov/mhpc/project\\_review](http://www.maine.gov/mhpc/project_review) (see tabs in the white box on the left side of the webpage under Project Review). Please also find attached our revised photographic policy to be referenced in lieu of the policy in our on-line survey manual. Any computer generated template other than that provided by MHPC must be approved by MHPC prior to submission. No changes to the survey forms are to be made without consulting MHPC.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kirk Mohnney".

Kirk Mohnney  
Deputy State Historic Preservation Officer

Enc.



JOHN ELIAS BALDACCI  
GOVERNOR

MAINE HISTORIC PRESERVATION COMMISSION  
55 CAPITOL STREET  
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DIRECTOR

## Maine Historic Preservation Commission

### Photographic Policy

#### *Supplement to the Guidelines for Identification: Architecture and Cultural Landscapes Survey Manual. 26 June 2008*

#### Architectural Survey

The following is required of grant funded, MDOT, and Federal agency surveys and encouraged with volunteer surveys.

##### A. Black and White Film.

Each resource shall be photographed with black and white film. This film shall be developed and a contact print made from the negatives. The negatives and contact print shall be indexed to the survey forms and the corresponding digital images (see below) and submitted with the survey.

If the facilities are available, surveyors may choose to print each film image, utilizing a true black and white photographic process and printed preferably on non-resin coated fiber based paper. The finished photographs need to be thoroughly washed, printed with borders, and measure 3 ½ x 5 inches. These photographs may be mounted on the survey forms using archivally safe adhesive, such as Elmer's Glue. Photographs attached with paperclips or staples will not be accepted.

##### B. Digital Images

An identical (or nearly identical) image shall be taken of each resource with a digital camera. The original image size must be no smaller than 1600 x 1200pixels at 300 pixels per inch. The digital images shall be saved in RGB color format. All digital images shall be burned onto a CD-R Gold or DVD-R Gold disk, and labled with project name/ pin #/ surveyor name and date. The individual images must be labeled in a manner that allows them to be linked to the specific survey form.

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55 Capitol Street  
 State House Station 65  
 Augusta, Maine 04333



Each digital image shall be uploaded onto survey form in the MHPC/MDOT Survey website, (once it is on-line). A test image, in black and white, shall then be digitally printed directly onto a blank survey form (using the required cover-stock). If the printed image is clear (no bleeding), then all the survey images can be printed directly onto the forms (in black and white), when the forms are printed from the website. If the test image is not clear, then all the digital images should be printed onto photographic paper as specified below and this image will then be affixed to the submitted copy of the survey using archivally safe adhesive. The digital images shall be indexed to the survey forms and the black and white negatives.

Digital image printing: The following printer/ink/paper combinations have been found to meet a 75 year archival standards. All digital images printed for architectural surveys must meet this standard.

**NOTE:** The list below includes products known at this time to meet the minimum documentation specifications established for the submission of architectural surveys. The list is not intended to be restrictive or comprehensive, and does not constitute, and shall not be taken as, endorsement by the Maine Historic Preservation Commission of any of the specific products or manufacturers identified.

Epson Stylus Photo 1400	Epson ClariaA Hi-Definition Inks@	Premium Presentation Paper Matte Epson Ultra Premium Glossy Photo Paper
Epson Style Mate	Epson Picture Mate Pigment Inks	Epson PictureMate Paper
Epson Stylus CX4800 (contains scanner)	Epson DURABrite Ultra Pigmented Inks	Premium Presentation Paper Matte Epson Ultra Premium Glossy Photo Paper
Hewlett-Packard Photosmart 325 and 475	HP Vivera 95 dye-based Inks	Epson HP Premium Plus Photo Paper
Hewlett-Packard Photosmart 8450	HP Vivera dye-based Inks	HP Premium Plus Photo Paper
Hewlett-Packard Photosmart B9180	HP Vivera Pigment Inks	HP Advanced Photo Paper Glossy HP Photo Matte Paper
Hewlett-Packard Photosmart C6180 (all in one series)	HP Vivera Inks	HP Premium Plus Photo Paper
Lexmark Home Photo Center P6250	Lexmark Evercolor Dye/ Pigment Hybrid Photo Inks	Lexmark Premium Photo Paper High Gloss

MAINE HISTORIC PRESERVATION COMMISSION

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**National Register Photographs.**

All photographs provided to MHPC for submission with a National Register of Historic Places nomination must conform to the National Register Photographic Policy as stated by the National Park Service. This policy is available on line at:  
<http://www.nps.gov/history/nr/policyexpansion.htm>





UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
55 Great Republic Drive  
Gloucester, MA 01930-2276

FEB 10 2009

Normand Laberge, PhD P.E.  
Tidewalker Engineering  
46 Place Cove Road  
Trescott, ME 04652

**Re: Information request from Tidewalker Associates for the proposed Half-Moon Cove project, Cobscook Bay, ME**

Dear Mr. Laberge:

This responds to your email inquiry dated January 12, 2009, requesting information relevant to the proposed Half-Moon Cove tidal power project in Cobscook Bay, ME. As part of the process leading to the submittal of a pre-application document (PAD) with the Federal Energy Regulatory Commission (FERC), Tidewalker Associates (Tidewalker) is gathering information on the existing environment of the area and the potential impacts associated with a tidal power project on National Oceanic and Atmospheric Administration (NOAA) trust resources in the proposed location. Accordingly, this information will be used by Tidewalker for the development of all necessary environmental evaluations, including Essential Fish Habitat (EFH), Fish and Wildlife Coordination Act (FWCA), Endangered Species Act (ESA), and Marine Mammal Protection Act (MMPA) assessments. NOAA's National Marine Fisheries Service (NMFS) previously provided comments for the FERC preliminary permit for this project on August 28, 2006.

The NMFS has federal statutory responsibility for the protection, mitigation, and enhancement of marine and anadromous fish resources and habitats and marine mammals that may be directly or indirectly affected by this project. Those authorities include the protection of marine and anadromous fish and their habitats under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), diadromous species under the FWCA, marine mammals pursuant to the MMPA, and threatened and endangered species under the ESA. These same statutory authorities also obligate any federal agency, including FERC, to consult with NMFS before taking any action that might adversely affect NMFS trust resources. The proposed tidal power project has the potential for significant adverse effects to marine resources that utilize Cobscook Bay for spawning, rearing and migration, including marine and diadromous fish and marine mammals.

**Magnuson-Stevens Fishery Conservation and Management Act**

The MSA requires federal agencies to consult with one another on projects such as this. Insofar as a project involves EFH, this process is guided by the requirements of our EFH regulation at 50 CFR 600.920, which mandates the preparation of EFH assessments and generally outlines each



agency's obligations in the relevant consultation procedure. Specifically, due to the potential impacts to EFH and federally managed species from the proposed project, an EFH consultation will be required by the Federal action agency, in this case, the FERC. As you may know, the MSA require the FERC to request and conduct an EFH consultation with NMFS.

The contents of an EFH assessment should include at a minimum, the following information: 1) a description of the proposed action; 2) an analysis of reasonably foreseeable impacts including secondary and cumulative effects on EFH, Federally-managed species and major prey species; 3) the action agencies views regarding effects on EFH; and 4) proposed mitigation, as appropriate. Other information that should be contained in the EFH assessment, if appropriate, includes: a) the results of on-site inspections to evaluate the habitat and site-specific effects; b) the views of recognized experts on the habitat or the species that may be affected; c) a review of pertinent literature and related information; and d) an analysis of alternatives to the action that could avoid or minimize the adverse effects on EFH. Additional information pertaining to designations, descriptions, and general consultation process can be found at NMFS' Northeast Region, Habitat Conservation Division website: <http://www.nero.noaa.gov/hcd/>.

Once the pertinent information, including an EFH assessment, is provided by FERC, NMFS will be able to initiate the consultation and provide EFH conservation recommendations, if necessary, pursuant to Section 305(b)(4)(A) of the MSA.

Based upon the information provided in your email and previous correspondence, the proposed project site is located in or adjacent to estuarine and riverine ecosystems of the Cobscook Bay. These areas have been identified as EFH for the life history stages of several species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, and NMFS. These species and life history stages include, but are not limited to, juvenile and adult Atlantic salmon, whiting, red hake, white hake, and Atlantic mackerel; larvae, juvenile, and adult Atlantic cod, pollock, and Atlantic sea herring; egg and larvae yellowtail flounder; and all life stages of winter flounder, windowpane flounder, American plaice, ocean pout, Atlantic halibut, and Atlantic sea scallop.

#### **Fish and Wildlife Coordination Act**

Pursuant to the FWCA, FERC is required to consult with NMFS if a proposed action modifies a water body. The FERC is required to consider recommendations from NMFS to prevent loss of and damage to fish and wildlife resources. The general area of Cobscook Bay is known to support a number of such NMFS trust resources, including soft-shelled clams, blue mussels, American lobster, American eel, tomcod, rainbow smelt, American shad, blueback herring, alewife, sea lamprey, Atlantic silverside, cunner, tautog, lumpfish, striped bass, and eelgrass beds. Many of these species have been identified as forage species for some of the federally managed species listed above (Collette and Klein-MacPhee 2002). Information relevant to potential impacts to these species, including alteration of their physical habitats and water quality, migrations, feeding and spawning behavior, and their forage base should be evaluated in the environmental assessments prepared for the proposed project.

#### **Endangered Species Act**

On December 17, 2000, the Gulf of Maine Distinct Population Segment (DPS) of native Atlantic salmon was jointly listed by NMFS and the U.S. Fish and Wildlife Service (USFWS)

(collectively, the Services) as endangered under the 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. To date, the Services have determined that these populations are found in the Denny's, East Machias, Machias, Pleasant, Narraguagus, Ducktrap, and Sheepscot Rivers, Kenduskeag Stream, and Cove Brook. The proposed project is located within the geographic range of the DPS and thus has the potential to affect listed salmon. It should be noted that NMFS and USFWS recently proposed changes to the original 2000 listing of endangered Atlantic salmon in Maine. On September 3, 2008, the Services issued a proposed rule in the Federal Register (FR 51415-51436) to expand the geographic range of listed Atlantic salmon to include populations existing in the mainstem and tributaries of the Penobscot River upstream of the former Bangor Dam, the upper Kennebec River, and the Androscoggin River (73 FR 51415). On September 5, 2008, NMFS issued a proposed rule (FR 51747-51781) to designate critical habitat for listed Atlantic salmon in Maine pursuant to section 4(b)(2) of the ESA. These proposed rules and other important information concerning listed Atlantic salmon populations in Maine including the 2006 Status Review can be found at NMFS' Northeast Region website: [http://www.nero.noaa.gov/prot\\_res/altsalmon/](http://www.nero.noaa.gov/prot_res/altsalmon/).

In addition to Atlantic salmon, other federally listed sea turtle and marine mammal species are known to be present in Maine waters. The leatherback sea turtle (*Dermochelys coriacea*) and right (*Eubalaena glacialis*), humpback (*Megaptera novaeangliae*), and fin (*Balaenoptera physalus*) whales may be present in coastal and offshore waters of Maine and the Bay of Fundy. Although these species would be unlikely in the vicinity of Half Moon Cove, FERC should consider whether project activities would impact the surrounding waters where these species may occur.

Under Section 7(a)(2) of the ESA, each Federal agency is required to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. Any discretionary federal action that may affect a listed species must undergo Section 7 consultation. As listed species may be present in the project area, the FERC is responsible for determining whether the proposed action is likely to affect any listed species. For projects in the marine and estuarine environment (i.e., below head of tide), the Services have agreed that all comments and correspondence regarding consultation for Atlantic salmon under Section 7 of the ESA will be channeled through NMFS.

Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) are distributed along the entire East Coast of the United States and have been designated a Candidate Species by NMFS. The best available scientific information indicates that Atlantic sturgeon occur in several river systems in Maine and in Canada (e.g., the Penobscot, Kennebec, Androscoggin and Saint John) and may occur in the action area. In 2006, NMFS initiated a status review for this species to determine if listing as threatened or endangered under the ESA is warranted. The Status Review report is available at: [http://www.nero.noaa.gov/prot\\_res/CandidateSpeciesProgram/AtlSturgeonStatusReviewReport.pdf](http://www.nero.noaa.gov/prot_res/CandidateSpeciesProgram/AtlSturgeonStatusReviewReport.pdf). NMFS is currently considering the information presented in the 2007 Status Review Report to determine if any listing action pursuant to the ESA is warranted at this time. A listing determination, and, if listing is warranted, any accompanying proposed rule(s), is expected to be published by NMFS in 2009. As a candidate species, Atlantic sturgeon receive no substantive or

procedural protection under the ESA; however, NMFS recommends that project proponents consider implementing conservation actions to limit the potential for adverse effects on Atlantic sturgeon from any proposed project. Please note that if the species is proposed for listing, the conference provisions of the ESA become applicable (see 50 CFR 402.10(e)).

**Marine Mammal Protection Act**

All marine mammals receive protection under the MMPA of 1972, as amended. The MMPA prohibits, with certain exceptions, the take of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S. The MMPA established a federal responsibility to conserve marine mammals with management vested in the Department of Commerce for cetaceans (e.g., whales, dolphins, porpoises) and pinnipeds (e.g., seals). NMFS may issue permits under the MMPA Section 104 to persons, including federal agencies such as the FERC, that authorize the taking or importing of species of marine mammals. Several species of marine mammals are common residents or occasional visitors to Cobscook Bay, including gray seals, harbor seals, and harbor porpoises. The construction and operation of the proposed tidal power facility in Half-Moon Cove could adversely affect these marine mammals through disturbance/alteration of habitat and interaction with generating facilities.

In summary, information regarding potential impacts to NMFS trust resources should be evaluated in the environmental assessment prepared for the proposed tidal energy project. The direct, indirect, and cumulative effects on fish, sea turtles, invertebrates, and marine mammals in the vicinity of the proposed project should be evaluated, including alteration of the hydrology and tidal regimes, sediment transport and dynamics, water quality, and physical habitats. In addition, the potential interaction of these organisms with the proposed tidal energy generating facilities should be evaluated.

We appreciate the opportunity to participate in early coordination on this project with the applicant and FERC and provide preliminary information regarding NMFS trust resources. Related correspondence on EFH and FWCA should be addressed to the attention of Michael Johnson at the letterhead address above, or by phone at (978) 281-9130. More information concerning ESA and section 7 consultations regarding Atlantic salmon can be directed to Jeff Murphy at the letterhead address above, or by phone at (207) 866-7379. Information related to marine mammals and sea turtles should be addressed to the attention of Kristen Koyama at the letterhead address above, or by phone at (978) 282-8481.

Sincerely,



Peter Colosi  
Assistant Regional Administrator  
for Habitat Conservation

cc: Mary Colligan, PRD  
Kimberly Bose, Secretary, FERC

**Reference**

Collette BB, Klein-MacPhee G, eds. 2002. Bigelow and Schroeder's fishes of the Gulf of Maine.  
Third ed. Washington, D.C.: Smithsonian Institution Press. 748 p.



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Maine Field Office – Ecological Services  
1168 Main Street  
Old Town, ME 04468  
(207) 827-5938 Fax: (207) 827-6099



In Reply Refer To: 53411-2009-FA-0033  
FWS/Region5/ES/MEFO

January 22, 2009

Normand Laberge  
Tidewalker Engineering  
46 Place Cove Road  
Trescott, Maine 04652

Dear Mr. Laberge:

Thank you for your email dated January 12, 2009 requesting information or recommendations from the U.S. Fish and Wildlife Service. This letter provides the Service's response pursuant to Section 7 of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531-1543), Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250) and the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661-667d).

**Project Name/Location:** Half Moon Cove Tidal Power, Eastport, ME

#### **Federally listed species**

Half Moon Cove is within the Gulf of Maine DPS of the Atlantic salmon. Further consultation may be needed with the U. S. Fish and Wildlife Service or National Marine Fisheries Service. No other federally threatened or endangered species under the jurisdiction of the Service are known to occur in the project area.

#### **Other protected species**

We have not reviewed this project for state-threatened and endangered wildlife, wildlife species of special concern, and significant wildlife habitats protected under the Maine Natural Resources Protection Act. I recommend that you contact the Maine Department of Inland Fisheries and Wildlife

Steve Timpano  
Maine Department of Inland Fisheries and Wildlife  
284 State St.  
State House Station 41  
Augusta, ME 04333-0041  
Phone: 207 287-5258



I recommend that you contact the Department of Marine Resources for additional information:

Norm Dube  
Maine Department of Marine Resources  
650 State St.  
Bangor, ME 04401

I recommend that you contact the Maine Natural Areas Program for additional information on state-threatened and endangered plant species, plant species of special concern, and rare natural communities.

Lisa St. Hilaire  
Maine Natural Areas Program  
Department of Conservation  
93 State House Station  
Augusta, ME 04333  
Phone: 207 287-8046

### **Bald eagles**

Occasional, transient bald eagles (*Haliaeetus leucocephalus*) may occur in the area. Based on the information currently available to use, there are several pairs of bald eagles that nest in the area, including one pair that nests in Half Moon Cove (see attached map). The bald eagle was removed from the federal threatened list on August 9, 2007 and is now protected from take under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. "Take" means to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb. The term "disturb" under the Bald and Golden Eagle Protection Act was recently defined within a final rule published in the Federal Register on June 5, 2007 (72 Fed. Reg. 31332). "Disturb" means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle; 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior; or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

Further information on bald eagle delisting and their protection can be found at <http://www.fws.gov/migratorybirds/baldeagle.htm>.

Please consult with our new national bald eagle guidelines, which can found at <http://www.fws.gov/migratorybirds/issues/BaldEagle/NationalBaldEagleManagementGuidelines.pdf>.

These Guidelines are voluntary and were prepared to help landowners, land managers and others meet the intent of the Eagle Act and avoid disturbing bald eagles. If you believe your project will result in taking or disturbing bald or golden eagles, please contact our office for further guidance. We encourage early and frequent consultations to avoid take of eagles.

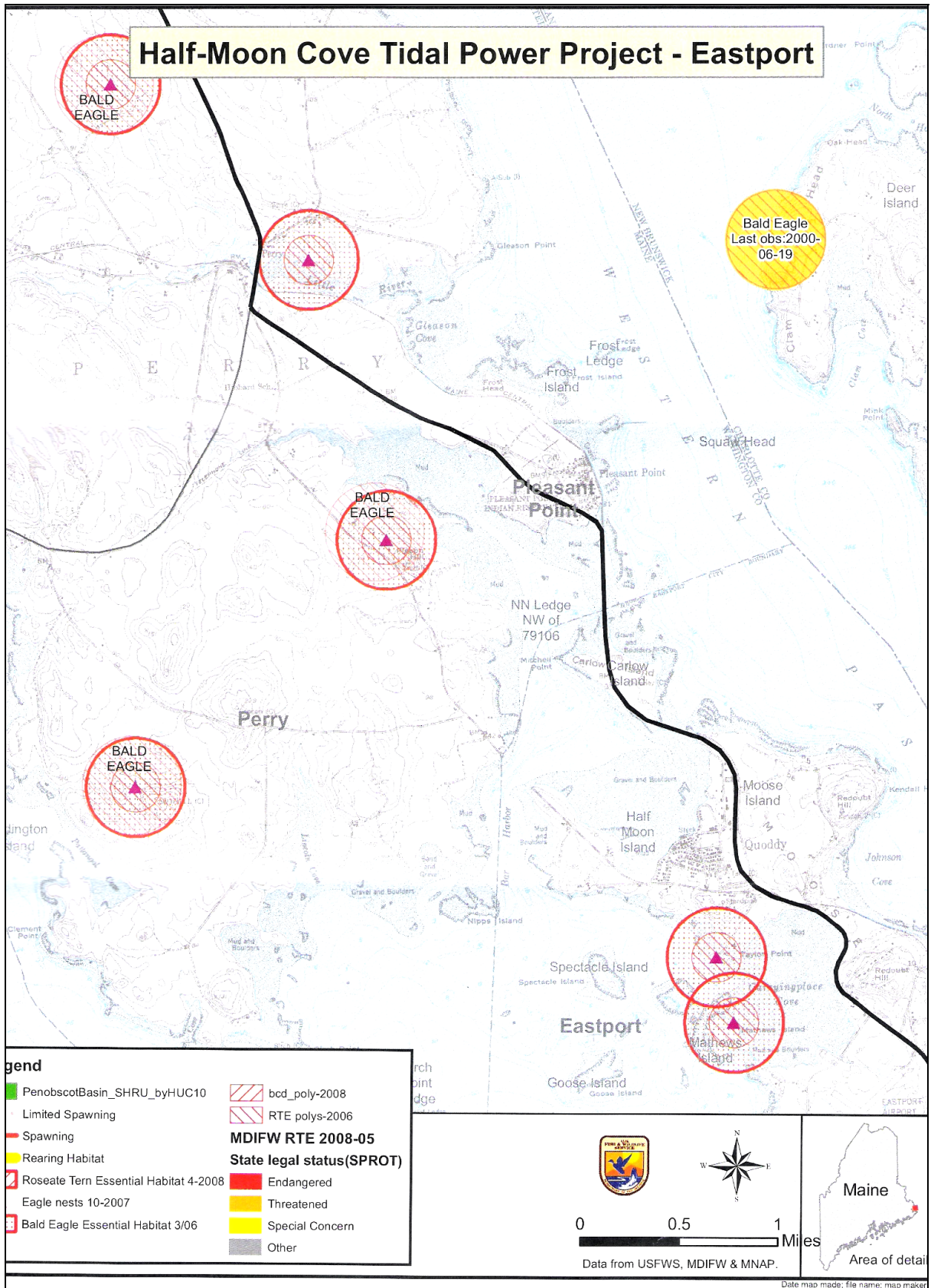
If you have any questions, please call Mark McCollough, endangered species biologist, at (207) 827-5938 ext.12.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Nordstrom", is written over a faint, larger, light-colored signature.

Lori Nordstrom, Project Leader  
Maine Field Office





**Attach:** Half Moon 1-19-09 Urchin Drag 2.jpg; Half Moon 1-14-09 Urchin Drag 2.jpg; Half Moon 1-14-09 Urchin Drag 4.jpg; Half Moon 1-19-09 Urchin Drag 1.jpg  
**Subject:** RE: FERC DUE DILLIGENCE

Norm,

Attached as requested please find pics of fishing vessels urchining in Half Moon Cove on 1-14 and 1-19-09

There are usually 3 to 5 draggers working on dragging days (Monday, Tuesday, & Wednesday) and sometimes more when the wind is strong in Cobscook.

Wrinkling is very active (day and night) even in winter.

Hope this is helpful

Bob

Capt. Bob Peacock  
rpeacock@trufresh.com  
207-263-6403 mobile  
207-733-9714 office





Regulatory agency remarks were gathered in the 1980s and are summarized below as historical reference for a project which would have increased the low tide level by approximately 8-10 feet for an average tide.

Consultation Process:

Development plans for the proposed Half-Moon Cove project were prepared in close coordination with federal and State of Maine Agencies. The following agencies were contacted during the past year:

A. State of Maine Agencies

Department of Environmental Protection  
Department of Conservation  
-Bureau of Public Lands  
-Bureau of Parks and Recreation  
Maine Historic Preservation Commission  
Department of Inland Fisheries & Wildlife  
Department of Marine Resources  
State Planning Office  
-Department of Transportation  
-Land and Water Resources Council (Half-Moon Cove Subcommittee)

B. Federal Agencies

Army Corps of Engineers,  
New England Division  
Environmental Protection Agency  
National Marine Fisheries Service  
Fish and Wildlife Service  
Coast Guard  
Federal Energy Regulatory Commission  
Heritage Conservation & Recreation Service

C. Other Agencies

New England River Basins Commission  
Washington County Board of County Commissioners  
Eastport Planning Board  
Perry Planning Board  
The Washington County Regional Planning Commission

The following procedure was generally used during the consultation process: (1) Request guidelines and regulations concerned with project licenses and permits; (2) Review material; (3) prepare summary of project plans for review by the agencies; (4) incorporate comments into a draft environmental report distributed to selected agencies; and (5) prepare FERC license application and certain State of Maine permits.

The draft Environmental Report was circulated to those agencies which had specific concerns that were not resolved during the preliminary phases of discussion. For example, the Maine Historic Preservation Commission indicated that the project would have no effect on historical, cultural, or archaeological resources of the region. The following agencies received a copy of the draft environmental report: Department of Environmental Protection; Maine Dept. of Marine Resources; Maine Land and Water Resources Council; Army Corps of Engineers; Environmental Protection Agency; National Marine Fisheries Service; Fish & Wildlife Service; and the Federal Energy Regulatory Commission.

The result of the consultation process for each agency is presented as follows:

1. Dept. of Conservation, Bureau of Public Lands:  
The relationship between this agency and the tidal project refers to the Submerged Lands Law. Specifically, the Bureau's concerns were related to the State's proprietary interests and the receipt of a fair rental value for the use of State Property. Negotiations in this case were aided by the on-going review performed by the Half-Moon Cove sub-committee of the Lands and Water Resources Council. The decision to grant the lease appears as Appendix X-1. The terms of the lease have not been finalized, but it is important to point out that the lease includes a provision to compensate for environmental losses. In this case, a net in-place resource value of \$23,800 per year has been imputed for loss in clamming habitats caused by the project's operation. A recommendation has also been made to use a portion of the lease to promote regional conservation and management techniques for the marine resources. The decision to grant a lease represented a decision that the proposed tidal power development was the best and highest rated use of the resource.
2. Dept. of Conservation, Bureau of Parks and Recreation:  
Section F (Exhibit E) of this application discusses the recreational aspects of project development. Specifically, the Bureau of Parks and Recreation concluded that they "Envision(ed) no state-level recreation concerns with this project in regards to our responsibilities".
3. Maine Historic Preservation Commission:  
Section 4 (Exhibit E) of this application outlines the measures taken to resolve any concerns. The Maine Historic Preservation Commission concluded that the "project will have no effect upon any structure or site of historic, architectural, or archaeological significance as defined by the National Historic Preservation Act of 1966".
4. Department of Inland Fisheries & Wildlife (IFW):  
This agency received project information, but never responded to queries of potential impacts other than comments made during the review of the Tribal Council's preliminary permit application. Half-Moon Cove has only two small fresh-water streams within its boundary. The impact to fisheries was therefore considered the responsibility of the Department of Marine Resources. The effect on wildlife resources was addressed in the draft environmental report. The U.S. Fish & Wildlife Service responded to the report as indicated later in this section. A short discussion was held with Mr. Frank Gramlich, IF&W, to ascertain the potential impacts on bald eagles due to the project's construction and operation. Mr. Gramlich comments indicated that the impacts to the bald eagle would not be adverse since no nesting areas were near the project site.

5. Department of Marine Resources (DMR):  
Appendix X-2 includes two letters received from DMR. The first letter was written in response to a question related to the need of a fishway for the project. DMR concluded that a fishway was not warranted due to the fact that Half-Moon Cove does not have fresh water streams to support sufficient anadromous fish runs.  
The second letter was written in response to the draft environmental report. Their comments have been included to represent their views. The suggested change in the assessment of construction effects on finfish has been included in the report's final draft with an explanation written by the applicant. The comment from DMR concerning the impact on clamming habitats has also been addressed earlier during the discussion of the Submerged Lands Law. Other comments from DMR do need any further clarification.
6. State Planning Office (SPO):  
The concern in this case refers to the federal consistency provision of Maine's Coastal Zone Management Program. A letter from SPO appears in Appendix X-3. The referenced booklet, Guide to Federal Consistency under Maine's Coastal Program, does not appear in its entirety due to the length of the document. The applicant will comply with the guidelines in the manner indicated. Applications for the appropriate permits will be made subsequent to the filing for a FERC license application. However, the application for coastal wetlands alteration permit will be submitted concurrently with the FERC license since the water quality certificate is awarded as part of the permit's review.
7. Department of Transportation (DOT):  
This agency involvement was related to the design of the roadway. Specifications from DOT were included in the plant's design. Prepared by the Chas. T. Main Engineering Company.
8. Land and Water Resources Council:  
The Half-Moon Cove subcommittee completed and in-depth review of the project and assisted the deliberations on the submerged lands lease. This group was an extremely useful source of information and served as an efficient forum to present the overall scope of project development. The subcommittee was also useful in outlining the licensing and permitting process.
9. Army Corps of Engineers, New England Division:  
Three areas of concern were identified during the course of study: (1) compatibility with other proposed projects; (2) navigational impacts; and (3) section 404 of the Clean Water Act (dredging and excavation). The question of project compatibility refers to several tidal power sites presently under investigation by the Corps of Engineers (COE). The most prominent of these schemes would impound Cobscook Bay by the construction of a tidal barrage between Lubec and Eastport. Discussions were held with COE at their Waltham, Massachusetts Office. Appendix X-4 summarizes the discussion which enabled coordinated studies under the assumption that the projects could be made compatible by the placement of filling/emptying gates on the Passamaquoddy Bay side of Half-Moon Cove.

The second matter concerned the navigational impacts of the project's construction. In this case, Appendix X-5 concludes that "the proposed project will have negligible effect on navigation. The U.S. Coast Guard was similarly questioned about the navigational impacts, but no comments were made to our inquiry which assumedly would corroborate the COE statement.

The section 404 permit was another issue addressed in the Corps letter appearing in Appendix. In this case, procedures were outlined for the submittal of a Section 404 permit with the understanding that the application would be made subsequent to the filing for a FERC license. A section 404 permit application is expected to be completed later this year.

10. Environmental Protection Agency (EPA):

The reply from EPA on the draft environmental report appears in Appendix X-6. The EPA letter acknowledges the fact that the report addressed their concerns and that additional comments would be forthcoming during the formal FERC comment period. At an earlier discussion with EPA, concern was expressed on the effect that the project would have on Cobscook Bay's tidal resonance. Appendix X-6 also includes an analysis of this factor.

11. Fish & Wildlife Service (FWS):

Extensive comments were received from FWS as indicated in Appendix X-7. Specific comments to the points raised by FWS also appear in Appendix X-7. However, in general, the following statements attempt to summarize our comments to the FWS queries:

- the FERC license will include all the exhibits
- Cobscook Bay and Passamaquoddy Bay has sufficient feeding areas for shorebirds and bald eagles to accomodate the loss habitat resulting from the project's operation
- discussions have been held regarding endangered species
- the applicant is willing to comply with a proposed provision of the FERC license which would establish a plan for environmental studies
- mitigation for loss habitat has been addressed in negotiations for the submerged lands lease and that the development of Aquaculture within the impoundment might also serve as a mitigating factor
- "alternatives" section has been rewritten to include more information on different modes of operation

12. Coast Guard:

Attempts were made to receive comments on potential navigational impacts. Presumedly; comments from the Corps of Engineers will be adequate for this assessment.

13. Federal Energy Regulatory Commission (FERC):

Comments from FERC regarding the draft Environmental appear in Appendix X-8. The following responses refer to the five comments listed in the FERC letter.

- Impacts on the terrestrial and aquatic areas to be utilized or affected by construction

activities have not been totally quantified except for certain aspects of site preparation at the entrance to Half-Moon Cove. The applicant proposes to defer the preparation of final construction details for excavation and dredging plans until the submittal A section 404 permit with the Corps of Engineers. Provisions could be written into the FERC application to ensure that an appropriate review process is made for this phase of development. However, it seems likely that a decision, or at least an assessment of the Corps permit will be available before a review of the FERC license is completed.

- A distribution and abundance of commercially important species has been assessed by the Department of Marine Resources (See Appendix X-2 ). DMR inputed a net in-place resource value of \$23,000 per year for the clamming population within Half-Moon Cove. The lease for the submerged lands from the State of Maine has included information on the commercial fisheries value of Half-Moon Cove.
- Letters documenting the consultation process are presented in this section. Comments from the local municipal governments are not available other than the expressed intent to coordinate the development of a mutually beneficial recreational plans.
- Section F of Exhibit E (Environmental Report) summarizes the steps taken up to now and proposed for the enhancement of recreational opportunities.
- The FERC license application has been prepared in accordance with the guidelines established by: "Regulations Governing Applications for license for Major Unconstructed Projects and Major Modified Projects" (Docket No. RM 80-39).

14. Heritage Conservation & Recreation Service (HCRS):  
Section F of Exhibit E (Environmental Report) of this application outlines the HCRS position resulting from the consultation process. In summary, HCRS concluded that "the project would not impact any programs of this office" and that " we have no objection to the licensing of this project".
15. New England River Basins Commission (NERBC):  
Project material was repeatedly mailed to this agency, but no comments were mailed to the applicant. Since Half-Moon Cove is not an estuary, the impacts or relationship between the proposed tidal project and River basin issues is not readily discernible or seemingly applicable.
16. Washington County Board of County Commissioners:  
Efforts were similarly made to solicit comments from the Board of Commissioners with no apparent success or need for a reply.
17. Eastport Planning Board:  
A meeting was held with the Planning Board on July 29, 1981. The applicant was requested to file an application for a change in the existing regulations to allow the project's construction.
18. Perry Planning Board:  
The applicant will be meeting with the planning board in the