

Excerpt from Fifteen Mile Falls "Settlement Agreement, August 11, 1997

IV. Upper Connecticut River Mitigation and Enhancement Fund

A. Fund established

An Upper Connecticut River Mitigation and Enhancement Fund (the "Fund") will be established by the States of New Hampshire and Vermont or by their designee (e.g. the Northern New Hampshire Foundation of the New Hampshire Charitable Foundation). The Project Owner will contribute money to the fund in accordance with the following schedule. Contributions shall be nonrefundable once made by the Project Owner in accordance with the following schedule. Except as otherwise noted, all dollar amounts in the following schedule will be in 1997 dollars and will be adjusted for inflation.

- A. Within 120 days of the Completion of Licensing, the Project Owner will contribute a one-time initial payment of \$3,000,000 to the Fund.
- B. Each year thereafter for the duration specified herein, within 180 days after the close of the Project Owner's fiscal year, an annual contribution to the Fund will be made in the amount of the greater of \$100,000 or 10% of the gross revenues of the Project over a Base Amount. The Project gross revenues, for purposes of this Agreement will be determined by using Clearing Price Indices established by ISO New England or its successor entity. The Project Owner shall apply those indices to hourly accounting of energy actually generated at the Project during each fiscal year, and to all products and services generated by the Project which are sold, traded, exchanged or otherwise involved in a transaction during each fiscal year. The Base Amount shall be \$14,000,000.
- C. These annual contributions shall continue until the total amount of annual contributions (not including the initial contribution of \$3,000,000) equals \$13,500,000 or for fifteen years from the Completion of Licensing, whichever occurs first. In the event that upon the fifteenth year the total amount of annual contributions amounts to less than \$7,500,000, then annual contributions (calculated as set out in subparagraph 2 above) shall continue to be made until the total amount of all annual contributions reaches \$7,500,000.
- D. If, at the end of the new license term, the total amount of all annual contributions is less than \$7,500,000, then a one time contribution in the amount of the difference between the total amount of all annual contributions and \$7,500,000 shall be made. If at the end of the new license term, contributions and any accrued interest and dividends remain unexpended, they will be retained in the Upper Connecticut River Mitigation and Enhancement Fund and may be expended for the purposes and in the manner set forth herein.

B. Purposes and Uses of the Fund

The Fund shall be used for the following purposes in the Upper Connecticut River Watershed (the Connecticut River Watershed north of the confluence of the White River but may include the White River Watershed in situations deemed to have exceptional environmental benefits not available in the Upper Connecticut River Watershed):

1. Funding Project conservation easement establishment, monitoring and enforcement (See Section V) (up to \$500,000 from the initial \$3,000,000 payment to the fund). These funds will go to surveying the properties involved, conducting whatever legal work is necessary, and setting up an endowment to pay for ongoing monitoring and enforcement of the terms of the easements.

The remainder of the initial \$3,000,000 payment and the annual contributions shall be allocated to the following purposes in the percentages shown:

2. River restoration work including but not limited to the following work on the Upper Connecticut River Watershed (50% of the funds available): Dam removal/acquisition of development rights and property; Fish passage at non-hydro dams, unlicensed hydro facilities, and natural obstructions; and Other riverine habitat improvements, including water quality improvements or improvements in aquatic habitats. River restoration projects shall be targeted to developing premier salmonid fisheries; increasing and improving habitat for resident salmonids and Atlantic salmon (e.g., improving the structure of fish habitats, water temperatures and other similar measures); providing improved passage for migratory aquatic species; increasing or improving habitat for riverine dependent species; and improving water quality including reducing sedimentation and non-point source pollution.
3. Restoration, protection, and enhancement of wetlands and adjacent protective buffer areas (20% of the funds available). The goal is to restore or enhance an amount of wetlands outside of the project area (both upstream and downstream) to compensate for the wetlands either lost or adversely affected as a result of the project. If sufficient wetland values cannot be compensated for through restoration or enhancement, wetlands and their protective buffer areas may be acquired by outright purchase or protected through perpetual easements.
4. Riverine shoreland protection by restoring naturalized buffers along the river and/or streams in the drainage and stabilizing eroding shorelands both up and downstream of the FMF project area, to reduce water quality problems and serve other purposes, such as establishing or maintaining riparian wildlife habitat and wildlife travel corridors (20% of the funds available). Funds may be used to acquire, establish and protect riparian corridors and to implement measures to reduce shoreline erosion in such corridors. The emphasis in these latter efforts shall be maintaining or re-establishing forested shoreland buffers and on bioengineering rather than structural solutions to shoreline stabilization. This category also includes protecting unique or unusual natural areas, and areas of cultural significance including historic and

archaeological resources where they occur in riverine shorelands and important recreation lands and scenic features.

5. Mitigate tax revenue impacts in the communities where lands in the Upper Connecticut Valley to be covered by conservation easements pursuant to this Agreement are located (10% of the funds available). These funds are to be allocated in equitable proportions to be determined by the above towns with the assistance of the regional planning commissions, who shall act as the final arbiters before the dispersal of these funds. These funds are expressly not intended to compensate these municipalities for the impact of re-evaluation of the Project Owner's other properties (e.g. the power generation and transmission facilities) whose value is being reduced by matters unrelated to this settlement (e.g. changes in energy prices) and the restructuring of the electric utilities industry.

Consistent with these purposes, these funds are intended to be used to contribute to fulfillment of regional resource management goals, plans, and priorities as articulated by the responsible agencies.

The fund is expressly not intended to be used to defray the Project Owner's costs in conducting and implementing the resource studies, and management plans called for in section VI herein, unless otherwise agreed to by all Parties.

C. Fund Administration

1. Use of Funds—Decisions on the use of the Fund, including any accrued interest or dividends (excepting that portion identified in Section IV.B.5 which may be used by the receiving towns as they see fit) will be made by a committee of resource agencies, regional and local interests, non-governmental organizations, and the Project Owner ("Committee"). The Committee shall develop bylaws governing its function. The Committee may solicit proposals from nonprofit organizations, educational institutions, units of government, and officially appointed commissions within or serving New Hampshire or Vermont for projects which address any of the above purposes, and may target a specified portion of the funds to specific protection, mitigation or enhancement objectives or to specific areas which are encompassed within the purposes and geographic scope defined above.
2. Membership—The Committee shall be comprised of twelve members, including a representative or designee of the Project Owner, plus one representative from each of the following: USFWS, NPS, VT-ANR, a NH resource agency (to be rotated between the NHFGD and the NHDES), an Historic Preservation Agency (to be rotated between the NH and VT Historic Preservation Agencies), the North Country Council, the Northeastern Vermont Development Association, the Connecticut River Joint Commissions, the AMC, the CRWC, and TU.