



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

May 19, 2021

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

RE: MOTION TO INTERVENE, COMMENTS on the Lower Mousam Hydroelectric Project (FERC No. 5362-021) Kennebec Power and Light District

Dear Secretary Bose,

The Commission issued its *Notice of Application for Surrender of License, Soliciting Comments, Motions to Intervene, and Protests* on April 21, 2021 ([Accession # 20210421-3019](#)).

Pursuant to 18 C.F.R. §385.214 (a) as amended, the U.S. Department of Commerce hereby provides notice that it is intervening in the Lower Mousam Hydroelectric Project (FERC No. 5362) proceeding. We intervene for the purposes of becoming a party and to ensure that the interests of the Department of Commerce and the public are represented in this proceeding.

Service of process and other communications of this proceeding should be made to:

Regional Administrator
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

On March 31, 2021, the Kennebec Power and Light District filed a surrender application for the Lower Mousam Hydroelectric project ([Accession # 20210331-5430](#)). Prior to this filing, we were in receipt of an earlier version of this surrender application. Our comments on the previous filing are provided in Attachment A and are incorporated by reference to this updated filing.

Sincerely,

Michael Pentony
Regional Administrator



Attachment A

**Comments of the National Marine Fisheries Service on the Lower Mousam Hydroelectric
Project's Draft Surrender Application (FERC No. 5362)**



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March 12, 2021

Todd Shea, General Manager
Kennebunk Light and Power District
4 Factory Pasture Lane
Kennebunk, Maine 04043

RE: Comments on the Draft Surrender Application for the Lower Mousam Project P-5362

Dear Mr. Shea,

We are responding to the Draft Surrender Application (Draft Application) for the Lower Mousam Hydroelectric Project (FERC Project no. 5362) (Project), located on the Mousam River in the town of Kennebunk, York County, Maine. The Draft Application was submitted to resource agencies on February 12, 2021 for the required consultation review.

The 2020 Atlantic States Marine Fisheries Commission (ASMFC) American Shad Stock Assessment and Peer Review provides an extensive review of the many current existing issues with upstream and downstream passage measures impacting shad restoration coast wide (ASMFC, 2020). A modeling analysis in that report further defines the need for significant improvements in passage performance (up and down) in order to realize any meaningful gains in population size particularly in multi-dam systems (ASMFC, 2020). Likewise, the ASMFC stock assessment for river herring found that stocks are at an all-time low level (ASMFC, 2017), and American Eel populations have declined over the past few decades and remain well below their historic levels of abundance (ASMFC, 2012). The presence of dams and their impacts on habitat is identified as a major factor associated with these declines. All of these documents point to the need to either remove barriers to spawning and rearing habitat or to provide effective fish passage at such barriers.

The Draft Application states: “surrendering the License pursuant to the decommissioning plan ... would have no environmental effects.” We disagree with this statement, as the Kesslen dam remains a barrier to migratory fish and negatively affect riparian habitat quality. The environmental effect of this decommissioning plan would be to continue to limit the returning adult population of Alewife, American Shad, and Sea Lamprey, and it would limit the number of juvenile American eel that are able to reach rearing habitat that is upstream of Kesslen dam.

Restoring river herring in the Mousam River would support restoration of a keystone species that benefit a whole suite of fish, birds and wildlife in the Gulf of Maine. The stocks of cod in the Gulf of Maine are severely depressed and out-migrating juvenile clupeids would provide an



important food source for these fish¹. Currently, the State of Maine has a draft Fisheries Management Plan for the Mousam River Drainage. While we acknowledge that the document is in draft, the overarching objective is that the Mousam River holds significant restoration potential for diadromous fish. KLPD's Draft Application does not appear to support the goals of this plan. If KLPD implements the Draft Application as proposed, the Kesslen Dam will continue to remain barrier to migratory fish. We encourage the KLPD board to consider a course of action that helps to restore migratory fish to the Mousam River.

Please contact Bill McDavitt (william.mcdavitt@noaa.gov/978-675-2156) if you have any questions about our comments.

Sincerely,



Christopher Boelke
New England Field Office Supervisor
for Habitat Conservation

¹ McDermott, S. P., et al. (2015). "Quantifying alosine prey in the diets of marine piscivores in the Gulf of Maine." *Journal of Fish Biology* 86(6): 1811-1829.

