



Kennebunk Light & Power District
4 Factory Pasture Lane
Kennebunk, Maine 04043
(207) 985-3311
www.klpd.org

BOARD OF TRUSTEES BUSINESS MEETING AGENDA
TUESDAY, JANUARY 26, 2021
ZOOM VIDEO CONFERENCE @ 5:00 PM

- | | | |
|-------------|--|-------------|
| I. | CALL TO ORDER | 5:00 |
| II. | MEETING PROTOCOL | 5:00 |
| III. | OVERVIEW OF BOARD APPROVED SURRENDER PLAN | |
| IV. | PUBLIC COMMENT ON KLPD BOARD APPROVED SURRENDER PLAN, TO BE SUBMITTED TO FERC BY MARCH 31, 2021 | 5:10 |
| V. | NEXT MEETINGS: FEBRUARY 23, MARCH 30, 2021 | 7:00 |
| VI. | BOARD RECOMMENDATION FOR AGENDA ITEMS FOR NEXT MEETING | 7:00 |
| VII. | ADJOURN | 7:00 |



[FILING DATE]

VIA ELECTRONIC FILING

Ms. Kimberly Bose
Secretary, Federal Energy Regulatory Commission
888 First Street N.W.
Washington, DC 20426

**Re: Project No. 5362 – Maine
Lower Mousam Hydroelectric Project
Kennebunk Light and Power District
Surrender Application**

Dear Secretary Bose,

The Kennebunk Light and Power District (the District) submits this application to surrender its license (the License) for the Lower Mousam Hydroelectric Project (the Project), a minor existing water power project located on the Mousam River in Kennebunk, Maine, in accordance with the Plan and Schedule accepted by the Federal Energy Regulatory Commission (the Commission).¹

The District is a small consumer-owned utility, serving approximately 6,979 customers in portions of Kennebunk, Wells, Arundel and Lyman, Maine. The Commission issued the License to the District in 1982, authorizing the District to construct, operate, and maintain the small (600-kilowatt) Project as a “minor water power project” not subject to Sections 14 and 15 of the Federal Power Act.² As licensed, the Project includes three developments – Kesslen, Dane Perkins, and Twine Mill – each of which includes a dam, powerhouse, penstock, turbine, generator, transformer, electrical lines, and other project works.

As described in the attached Surrender Application, the District proposes to decommission the project pursuant to the decommissioning plan included in the Surrender

¹ November 5, 2020 Letter Order.

² Minor water power project means any licensed or unlicensed, existing or proposed water power project that would have a total installed generation capacity of 2,000 horsepower (1.5 MW), or less. 18 C.F.R. § 4.30(b)(17).

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Application. The District requests that the Commission approve the Surrender Application including the decommissioning plan.

In accordance with the consultation requirements provided in 18 C.F.R. § 6.1, the District provided a draft Surrender Application for review and comment by state and federal agencies as well as other stakeholders. Comments were received from [•] and are addressed herein.

The District looks forward to concluding its responsibilities under the License. If you have any questions about the District's proposal to surrender the License or its Surrender Application, please contact District General Manager Todd Shea at 207-985-3311 or tshea@klpd.org.

Very truly yours,

Todd Shea
General Manager
Kennebunk Light and Power District

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Distribution List
Lower Mousam Hydroelectric Project (FERC Project No. 5362)

[DISTRIBUTION LIST]

Federal Agencies

State Agencies

Tribes

Local Governments

Non-Governmental Organizations

Others

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**BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**APPLICATION FOR SURRENDER OF LICENSE
for the
LOWER MOUSAM HYDROELECTRIC PROJECT
FERC PROJECT NO. 5362**

Submitted by:

**Kennebunk Light and Power District
Kennebunk, Maine**

[FILING DATE]

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I. INITIAL STATEMENT

The Kennebunk Light and Power District (the District) submits this application to the Federal Energy Regulatory Commission (the Commission) to surrender its license (the License) for the Lower Mousam Hydroelectric Project (the Project), a small (600-kilowatt) minor existing water power project located on the Mousam River in Kennebunk, Maine, in accordance with the Plan and Schedule which has been accepted by the Commission.³ This application for license surrender is filed in accordance with § 6.1 of the Commission's regulations governing applications for surrender of a minor project license.⁴

II. REASON FOR SURRENDER

The License expires on March 31, 2022. The District's Board of Trustees determined not to seek a new license for the Project because the District has ample access to more reliable and more cost-effective sources of electricity, and because the Project is no longer economically efficient for the District to maintain or operate.⁵

III. DESCRIPTION OF THE DISTRICT

The District is a small consumer-owned utility, serving approximately 6,979 customers in portions of Kennebunk, Wells, Arundel and Lyman, Maine. The District is a quasi-municipal corporation chartered in 1951 by a Private and Special Act of the Maine State Legislature. It is a not-for-profit entity whose service territory is defined by its charter. Within its service territory, the District distributes power to the consumers and constructs and maintains the distribution system.

The District is the licensee for the hydroelectric project designated as Project No. 5362 in the Commission's records.⁶ The Commission issued the License to the District in 1982, authorizing the District to construct, operate, and maintain the Project as a "minor" project.

The exact name, business address, and telephone number of the District are:

Kennebunk Light & Power District
4 Factory Pasture Lane
Kennebunk, ME 04043
(207) 985-3311

³ November 5, 2020 Letter Order.

⁴ 18 C.F.R. § 6.1.

⁵ The District seeks to surrender the License pursuant to the terms of this application for these reasons. The District believes that it could potentially be possible in the future for some other entity to operate a hydropower project in this area of the Mousam River on economically rational terms.

⁶ *Kennebunk Light and Power District*, 19 FERC ¶ 62,061 (1982).

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The exact name, business address, and telephone number of each person authorized to act as an agent for the District in this application are:

Todd Shea
General Manager
Kennebunk Light & Power District
4 Factory Pasture Lane
Kennebunk, ME 04043
(207) 985-3311

IV. THE LICENSE AND THE PROJECT

The License covers project works associated with three distinct developments: Dane Perkins, Twine Mill, and Kesslen.

The existing Dane Perkins Development consists of: (1) a 12-foot-high, 83-foot-long concrete gravity dam with a 50-foot-long spillway section that has a crest elevation of 81.8 feet mean seal level (msl) plus 2.5-foot-high flashboards; (2) a 25-acre impoundment with a normal maximum elevation of 84.3 feet msl; (3) a powerhouse containing a single turbine-generator unit rated at 150 kilowatts (kW); (4) a generator lead connecting the turbine-generator unit to the regional grid; and (5) appurtenant facilities.

The Twine Mill Development is located approximately 0.5 mile downstream from the Dane Perkins Development and consists of: (1) an 18-foot-high, 223-foot-long concrete gravity dam with an 81-foot-long spillway section that has a crest elevation of 68.8 feet msl plus 3.0-foot-high flashboards; (2) a 12-acre impoundment with a normal maximum elevation of 71.8 feet msl; (3) a powerhouse containing a single turbine-generator unit rated at 300 kW; (4) a generator lead connecting the turbine-generator unit to the regional grid; and (5) appurtenant facilities.

The Kesslen Development is located approximately 2.5 miles downstream from the Twine Mill Development and consists of: (1) an 18-foot-high, 140-foot-long concrete gravity dam with a 114-foot-long spillway section that has a crest elevation of 42.2 feet msl plus 1.5-foot-high flashboards; (2) a 20-acre impoundment with a normal maximum elevation of 43.7 feet msl; (3) a powerhouse containing a single turbine-generator unit rated at 150 kW; (4) a generator lead connecting the turbine-generator unit to the regional grid; and (5) appurtenant facilities.

The license expires on March 31, 2022. Consistent with the Plan and Schedule accepted by the Commission, the District submits this application to surrender the License, cease generation of electricity, and decommission the project as described herein. The total installed capacity of the Project would be reduced to zero kW. Ownership and associated responsibilities for the property would remain with the District. To ensure that the Project is formally and safely retired, the District has developed a decommissioning plan, provided in this Surrender Application.

V. DECOMMISSIONING PLAN

The District proposes the following decommissioning plan. For each development, the District will remove all flash boards, disconnect all leads from each generator, permanently close

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or fill each penstock, remove all generation, transformers, and other project electrical equipment, remove all hydraulic fluids and reservoirs, remove all governor fluids and reservoirs, and secure the location with existing fencing. In addition, the District will perform additional development-specific decommissioning activities as summarized below:

Kesslen:

- Remove flash boards.
- Disconnect leads from generator.
- Disable flood gates.
- Permanently close penstock.
- Disable runners/chain in place.
- Dismantle and sell generator for scrap (space restrictions won't allow it to be removed intact).
- Remove all hydraulic fluids and reservoirs.
- Remove all governor fluids and reservoirs.
- Remove and sell all electrical equipment for salvage/reuse.
- Remove trash racks.
- Secure location with existing fencing.

Twine Mill:

- Remove flash boards.
- Disconnect leads from generator.
- Remove all generation and electrical equipment. Sell for salvage/reuse.
- Remove step up transformer and store for refurbishment/reuse.
- Remove trash racks.
- Fill penstock.
- Remove tailrace steel.
- Remove all hydraulic fluids and reservoirs.
- Remove all governor fluids and reservoirs.
- Secure location with existing fencing.

Dane Perkins:

- Remove flash boards.
- Disconnect leads from generator.
- Remove all generation and electrical equipment. Sell for salvage/reuse.
- Remove step up transformers and store for refurbishment/reuse.
- Remove trash racks.
- Fill penstock.
- Fill bypass gates.
- Remove all hydraulic fluids and reservoirs.
- Remove all governor fluids and reservoirs.
- Secure location with existing fencing.

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The District proposes to perform these decommissioning activities in two phases:

- Phase 1: Permanently cease generation and disconnect all leads from all Project generators, within 30 days following Commission approval of this Surrender Application.
- Phase 2: Complete all other work described in the decommissioning plan above, by March 31, 2024, pursuant to temporary subsequent licenses as necessary to allow the District time to mitigate impacts of decommissioning costs on the rates paid by the District's customers.

All decommissioning work will be done in compliance with applicable safety standards to ensure the safety of all contractors, surrounding inhabitants, and the facilities themselves.

All decommissioning work will be monitored on-site by one or more of the following individuals: Todd Shea or Kevin Vezina.

VI. ENVIRONMENTAL REPORT AND DESCRIPTION OF ENVIRONMENTAL EFFECTS

Due to the nature of the Project, including pre-existing dams and other facilities which predate the License, surrendering the License pursuant to the decommissioning plan described in this Surrender Application would have no environmental effects.

Overall, the Mousam River is heavily dammed, with approximately 13 dams on the river. 10 of these dams are located upstream of the Project – the closest, the 63-foot-high Old Falls dam, is located immediately upstream just above the Project.⁷ None of those upstream dams is regulated by the Commission, and none includes any fish passage features.

The environment existing before the License was issued has been described in an Environmental Assessment prepared in connection with License development.⁸ As noted in the Environmental Assessment and other reports, dams have existed on the Mousam River for centuries. The Environmental Assessment found: “the whole of the Mousam basin contains numerous dams. In fact, the history of small impoundments on the Mousam goes back to July 12, 1670, when the first dam was completed (Remich, 1911). There have been dams in existence on the Mousam continuously since a few years after this date.”⁹

⁷ Environmental Assessment at p. 43; Harvey Report at p. 3.

⁸ Lower Mousam River Hydroelectric Redevelopment: Environmental Assessment, J.E. Edinger Associates, Inc. (1979).

⁹ Environmental Assessment at p. 70.

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The Kesslen, Twine Mill, and Dane Perkins dams predate the Project.¹⁰ The Kesslen Dam is located at the site of older dams, themselves built atop a “natural falls” which blocked navigation and fish passage even before the construction of any dam.¹¹

The upper dam, built on the first natural falls in the river above the head of tide, is the location of the original mills in the area in the 1670s. A new dam was built at the site with the resumption of economic activity in the area in the 1720s and 1730s. Washed away in the great freshet of 1755, the dam was rebuilt in 1756, with a new sawmill in 1759. This dam was rebuilt in 1825, over two feet taller and with a timber crib structure, which was again replaced in 1873 by another timber crib dam resting on a cement foundation. That later dam was badly damaged in a flood in April 1920, and was replaced with a similar dam, which in turn was rebuilt in 1954 by a dam which eventually took the name of the last factory to draw power from it, the Kesslen Shoe Company.¹²

Despite the long history of these dams, at no point has fish passage been required. For example, in 1954, in connection with the construction of the existing concrete Kesslen dam on pre-existing concrete footings from the prior wooden dam which was then being replaced, Maine Department of Inland Fisheries and Game Commissioner Roland Cobb advised the District that the Department would not require a fishway at that time.

Similar conditions of natural falls and pre-existing dams exist upstream. An 1872 map predating the Project and the License “notes that the Dane-Perkins mill was located at a 14-foot drop in the Mousam River, with a seven-foot drop in the roof [sic] shortly downstream, and an 11-foot fall at the Twine Mill dam.”¹³

These dams predate the Project and the License:

In 1937, the KLPD purchased the two dams at the former Cat Mousam site from the Linen Thread Company: the principal mill site at the Twine Mill dam, and the Dane Perkins dam, used for water control. The KLPD renovated the dams following damages from the flood of 1936. Based on a photograph in the KLPD archives, it appears that the Twine Mill Dam may have been rebuilt at that time, in the identical location. In 1954, the KLPD replaced

¹⁰ See Harvey report at p. 2-3.

¹¹ Harvey report at p. 4.

¹² Harvey report at p. 10.

¹³ Harvey report at p. 13.

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the former Kesslen Mill dam in Kennebunk with the present concrete dam in the identical location.¹⁴

As a result of the historic falls, pre-existing dams, and other factors, “the upland portions of the Mousam River, including the section of the river containing the three dams that are operated by the KLPD, was not used for the purpose of navigation.”¹⁵

These factors, along with input from the public and other stakeholders, collectively informed the District’s development of this Surrender Application. In a non-binding referendum vote in the Kennebunk November 2016 general election, the overwhelming majority of voters – 72 percent – voted in favor of retaining the existing dams and impoundments following the cessation of hydroelectric generation.

Execution of this decommissioning plan would have no effect on the geology and soils of the Project or the immediate vicinity. There would be no ground disturbance associated with the decommissioning and, therefore, no erosion or other effects on geology and soils. The Mousam River in the Project reach flows under several bridges, including Mill Street, Interstate 95 and the Maine Turnpike, and U.S. Route 1 and Maine Route 9A where the Project and river run under Main Street in downtown Kennebunk. None of these bridges or related infrastructure will be affected by the decommissioning activities described in this decommissioning plan. Similarly, these decommissioning activities will not affect the level or quality of water in private or public wells or other water sources located near the Project.

During decommissioning, the Project works being removed will be removed from its current location and placed on temporary supports in the parking area of the facility before shipping off-site. The District does not anticipate any disturbance to soil, riverbed, water quality, or the original dam facilities. Care will be taken throughout the decommissioning process to ensure that no oil, chemical, or other discharges occur. Equipment and supplies will be available to implement best management practices to contain any spills should they occur.

Execution of this decommissioning plan would have no effect on Project water quality. According to historic reports, “Water quality problems on the Mousam River have been recognized by the Maine Department of Health and Welfare (DHW) as early as 1950.”¹⁶ These problems are attributed to remote discharges and conditions miles upstream from the Project into headwaters such as Estes Lake as early as 1945, “water quality problems in the Mousam downstream of Sanford” documented in 1973-1974, “significant deterioration in both the upper reaches of the Mousam and in the vicinity of Sanford”, and, “Water quality data clearly show deterioration in the Sanford region and Estes Lake, followed by some downstream improvement.”¹⁷

¹⁴ Harvey report at p. 19.

¹⁵ Harvey report at p. 21.

¹⁶ Environmental Assessment at p. 44.

¹⁷ Id. at pp. 46-47, 51.

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Continued water flows should ensure that the current water quality is maintained. The District will minimize any contact with the Mousam River during decommissioning. As noted above, the District will carefully remove hydraulic fluids and other chemicals without discharging them into the river.

Execution of this decommissioning plan would have no effect on fish and aquatic habitat at the Project. As documented in the reports and documents cited in this Surrender Application, fish habitat in the Project reach is minimal and minimally used. In a list prepared by the Maine Department of Marine Resources and Maine Department of Environmental Protection, prioritizing rivers for restoration efforts, the Mousam was rated as a low priority river due to the small watershed that it drains, the limited amount of habitat available, the large number of dams, and the lack of funding.¹⁸ A letter from the Atlantic Sea Run Salmon Commission's Program Coordinator similarly stated that, relative to Atlantic salmon, the Mousam is a very low priority for salmon restoration due to the paucity of suitable habitat, the number of passage barriers, and the existence of a brown trout fishery (a competitor of salmon).¹⁹ A 1955 report identified 13 dams on the main Mousam River, none of which had any fishway present.²⁰ A 2009 study of species present in the Mousam River estuary below Kesslen Dam found 444 invasive crabs but just "a total of 2 blueback herring, 6 alewife, 1 American shad, and 17 American eel were collected. Although these results may be useful for establishing presence or absence of species in the lower estuarine portions of the river, they do not indicate that there are sufficient numbers of diadromous species moving in the Mousam River to warrant the installation of fish passage structures at the dams."²¹ A 2011 study by Alden Laboratory concluded, "the available data on the Mousam River do not indicate that fish passage is necessary."²² A 2016 report concluded that "the operation of other dams upstream of the KLPD facilities currently exercise some influence over the hydrology of the river, and can be expected to do so for some time to come."²³

To the extent that fish may currently utilize the Project water, the continuation of flows through the river will maintain current flow conditions, and there is no expected impact to any existing fish or aquatic life use.

Execution of this decommissioning plan would have no effect on terrestrial resources, including wetlands, wildlife and botanical resources, which have been characterized in the Environmental Assessment. There will be no effect on wetlands as there are no wetlands at the Project that would be altered. There would be no ground disturbance associated with the decommissioning, and, therefore no resulting impacts to wildlife or botanical resources.

¹⁸ See Alden report at Section 4.1.

¹⁹ Alden report at Section 4.1.

²⁰ Environmental Assessment at p. 66.

²¹ Alden report at Section 4.1.1.1.

²² Alden report at Section 4.3.

²³ Wright-Pierce report (rev. 03-22-16), at p. 5 - 5.

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There are no protected species or designated critical habitat known to occur at the Project.²⁴ Therefore, the execution of this decommissioning plan will have no effect on protected species or designated critical habitat.

Execution of this decommissioning plan would have no effect on recreation resources or recreation use of the Project, as there would be no change to recreational use. The District proposes to make no change to existing boat launch and river access sites within the Project boundary. As noted, the impoundments behind the existing dams “enhance certain recreational opportunities for water sports such as canoeing and fishing.”²⁵

Execution of this decommissioning plan would have no effect on historic resources at the Project. The Kesslen Dam is eligible for listing on the National Register of Historic Places. The dam itself is therefore a cultural and historic resource. There will be no disturbance to the dam as part of the decommissioning work. Following decommissioning, ownership and responsibility for the Project property will remain with the District. Similarly, the decommissioning activities described in this decommissioning plan will not affect historic buildings such as the Kesslen Mill which sits atop the Kesslen turbine and generator equipment.

Execution of this decommissioning plan would also retain other community benefits, including access by the Kennebunk Fire Department to the river to obtain water for firefighting efforts, which would remain unchanged following surrender pursuant to the decommissioning plan. Moreover, popular sentiment in Kennebunk supports this proposal: as noted above, a non-binding referendum vote in the Kennebunk November 2016 general election showed that 72 percent of voters want the impoundments to remain in place, enabling these and other values even after the cessation of hydropower generation and the end of the License.

VII. SCHEDULE FOR SURRENDER OF THE PROJECT

The Project’s license expires on March 31, 2022. As described above, the District proposes a two-phase decommissioning plan on the following schedule:

- Phase 1: Permanently cease generation and disconnect all leads from all Project generators, within 30 days following Commission approval of this Surrender Application.
- Phase 2: Complete all other work described in the decommissioning plan in Section V above, by March 31, 2024, pursuant to temporary subsequent licenses as necessary to allow the District time to mitigate impacts of decommissioning costs on the rates paid by the District’s customers.

²⁴ See Lower Mousam River Hydroelectric Redevelopment: Environmental Assessment, J.E. Edinger Associates, Inc. (1979), at p. 5.

²⁵ Environmental Assessment at p. 7.

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VIII. CONSULTATION

Initial Consultation:

On [DATE], the District issued a letter to the following agencies and persons seeking consultation for the decommissioning plan and surrender application, requesting a response by [DATE].

[•]

On [February 12, 2021], pursuant to the District's approved Plan and Schedule, the District distributed a draft surrender application to the following federal and state resource agencies, as well as other interested entities. Pursuant to the Plan and Schedule, the District requested responses from these federal and state resource agencies, as well as other entities, by March 15, 2021.

[•]

Copies of the District's initial consultation request letters are attached as Exhibit [•].

In response to these letters, to date the District has received responses from [•], attached as Exhibit [•]. These comments are addressed below.

Response to Comments:

On [DATE], the District received a letter from [•], in response to its initial consultation letter. [•] commented that [•]. In response, the District [•].

IX. CONCLUSION

The District looks forward to concluding its responsibilities under the License, and requests Commission approval of this Surrender Application and decommissioning plan by [DATE].

Very truly yours,

Todd Shea
General Manager
Kennebunk Light and Power District

Attachments: Exhibits
Studies and Reports Referenced