



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

June 23, 2023

Todd Shea, General Manager
Kennebec Light and Power District
tshea@klpd.org

VIA EMAIL

RE: Federal License Surrender - Lower Mousam Hydroelectric Project (Project No. 5362)

Dear Mr. Shea:

On March 31, 2021, Kennebec Light & Power District (KLPD) filed with the Federal Energy Regulatory Commission (FERC) an application for surrender of its license for the Lower Mousam Hydroelectric Project (Project). KLPD proposes to partially decommission the Project by removing the flashboards and generating equipment but leaving the remaining facilities in place, including the three Project dams. Department of Environmental Protection (Department) staff submitted comments to FERC on May 21, 2021. The comments expressed concern about the Project's nonattainment of State water quality standards, currently and following the proposed partial decommissioning.

Department staff has reviewed evidence suggesting that the Project does not currently meet State water quality standards due, in part, to low levels of Dissolved Oxygen (DO) that were measured during studies conducted by America First Hydro in support of their abandoned relicensing effort. KLPD's proposal to remove the flashboards while leaving the dams in place could be insufficient to mitigate for the Project's effect on DO. KLPD's proposal also does not include any provisions for fish passage at the three Project dams. Unless KLPD proposes adequate fish passage measures, the proposed surrender would not meet State water quality standards.

If the Project's current nonattainment of State water quality standards is not corrected, the Department may choose to initiate enforcement activities against KLPD.

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Additionally, Project surrender activities could result in a discharge to State waters. The Department has not expressly waived its certifying authority under Section 401 of the federal Clean Water Act. Therefore, we anticipate that KLPD will submit an application for a Water Quality Certification (WQC) for this surrender. The application form is available here: <https://www.maine.gov/dep/land/dams-hydro/documents/hydro1.pdf>.

Within 30 days, please provide the Department with an update on the status of the FERC surrender application and an estimate of when the Department will receive KLPD's WQC application.

As Department staff previously noted, restoration of a free-flowing river, while not proposed by KLPD, would mitigate the effects on DO and aquatic life caused by the operation and continuing presence of the KLPD dams. Department staff are aware of potential funding sources to assist with dam removal activities and encourages KLPD to pursue them.

Department staff stand ready to work with KLPD to address nonattainment of State water quality standards and to assist KLPD as it develops its WQC application. Please contact me at (207) 641-9012 or via email at Kyle.Olcott@maine.gov if you have any questions about this matter.

Sincerely,



Kyle Olcott
Hydropower Coordinator
Bureau of Land Resources
Maine Department of Environmental Protection

cc: Kimberley Bose, Secretary
Federal Energy Regulatory Commission