



August 13, 2025

Laura Paye, Hydropower Coordinator  
Bureau of Land Resources  
Maine Department of Environmental Protection

Re: Comments re Ellsworth Black Bear Hydroelectric Project (FERC P-2727) application for a Water Quality Certificate

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I am writing in my capacity as Community Liaison for Green Ellsworth. We are a grassroots community-driven sustainability organization which was formed in 2017 to create a Green Plan for the City of Ellsworth. After 35 public forums and numerous other initiatives (surveys, focus groups, interviews, data collection etc) to understand the community's vision for a more sustainable city, we released a ten-year Green Plan in 2021. Since then Green Ellsworth's multiple action teams and their nine community partners have transitioned to a focus on implementing the more than 150 recommendations in the plan.

The first chapter of the Green Plan focuses on water resources and in particular the importance of the Union River watershed to our community and Hancock County. As the western boundary of the Downeast National Heritage Area and with the Upper Union River designated as a Focus Area of Statewide Ecological Significance as well as possibly the most promising habitat for the survival of cold water fish in Maine in the context of climate change (Trout Unlimited), the full stretch of this historic salmon river has significance that extends far beyond the reaches of the river within the boundaries of our city.

However, we in Ellsworth are especially aware of the impact of the Black Bear dams on water quality and habitat within our boundaries. Water flowing from the Upper Union to Graham Lake and even that flowing from Ellsworth's tributaries and lakes such as Branch Lake, our public drinking water supply, is clear, clean and capable of supporting native fish stocks and other wildlife as well as recreational activity. However, once that water empties into the impoundments created by the dams it is transformed into a muddy mess where native habitat has been destroyed to the point that there is insufficient oxygen to support native species. Despite periodic dredging, this has also led to the silting up of the reaches of the river below the dam to the point that access to and from our marina is limited and the natural shoreline habitats transformed.

The lack of free fish passage up and down the river—something noted regularly with great concern by our community ever since the building of the dam in the early 20th century—has depopulated and robbed our lakes and tributaries above the dams of the native diversity and previous abundance of aquatic species such as shad, salmon, alewives and American eel. Although a comparatively small number of some of these anadromous fish are caught and sold or trucked above the dam, there is little point to this activity as with their return migration to the sea, Black Bear is so lax in monitoring these migrations that many fish are either chopped up in the turbines or plunge from the 60+ foot dam to their deaths and are then deposited all along the river banks as a smelly display of callous disregard for our native species and natural

habitat. Green Ellsworth's summer intern this year spent the first week of his internship in June photographically documenting this extensive and prolonged fish kill as it stretched along the river from the dam, past waterfront restaurants and businesses to the Marina and Harbor Park and onwards past the Jordan Homestead Preserve on the Bayside Road—but this is not a singular occurrence. Rather it is an annual and predictable event with photographs and letters to the editor regularly appearing like clockwork in the *Ellsworth American*. If Black Bear had any genuine regard for these native species—or the residents, local businesses, or tourist economy of the community in which its dams are located—it could also predict, monitor and avoid these destructive events. At the very least they could regularly and accurately report such fish kills in a timely manner—something they have clearly not done as recently as this June.

Black Bear's track record established over its history of ownership of these two dams, also testifies to repeated disregard for water quality from Graham Lake to the sea and for the preservation of natural habitats that support native fish and wildlife as well as recreational activities such as swimming, boating and fishing. The extreme drawdowns on Graham lake have greatly compromised that waterbody and the remainder of the river in all of these respects, and it has led Graham Lake property owners to be among the most vocal of participants in the many public forums and annual Union River Watershed Summits we have hosted. Given that Leonard Lake is essentially a “dead” lake unable to support natural populations of fish and wildlife, we have also seen increasing participation from land owners around and near that lake as well as a much broader spectrum of people who want to see free fish passage up and down the river and clean and clear water quality for the full stretch of the river. There have also been frequent complaints about the boat landings Black Bear is supposed to maintain on Graham and Leonard Lakes. The latter is so badly maintained that it is virtually unrecognizable and consequently many people have been under the impression that there is no public access to that impoundment.

Although Black Bear is promising to aerate Leonard Lake and modify its drawdowns of Graham Lake, its previous track record, prolonged legal actions and current reapplication (with limited attempts to address the reasons given for the failure of their previous application) outweigh their proposed changes. Their primary focus is the profit margin for their shareholders so they are not going to propose anything that will entail significant costs (such as the introduction of fish passage) and they will extend the length of time during which they can continue to extract profit from the dams as long as they can pursue legal options and operate on temporary extensions of their license. This has led them to be secretive and openly antagonistic to local citizens who have been concerned and watchful stewards of our fish stocks, impoundment habitats and the aging dam facilities. They have tried to ban such people from coming onto their property—or being in the waters around the dam—and called law enforcement in some cases to keep them out of areas to which they are legally allowed access. Even when the local historical society requested a tour of their historic facilities, including their fish lift, Black Bear cancelled the tour at the last minute when they realized the tour would be open to the public (something that was made clear to them from the beginning).

If a new water quality certificate were issued and they were granted a new long-term license with the expectation that they would self monitor their progress and follow through with their proposed changes, their track record suggests that their follow through would be less than full and timely. Even with eventual follow through their proposed changes remain unlikely to yield great improvement. The damage to the natural habitat and native species has been so serious that proactive reparation of habitat from Graham Lake downstream would need to be required before such actions could begin to have a significant, positive effect.

Given the situation described here, it should not be surprising that our Green Plan clearly documents the water quality deficiencies and the destruction of native habitat, wildlife and fish species resulting from Black Bear's operation of the two Ellsworth dams. This leads to the following clear and specific recommendations:

Recommendation W-22: Require whoever owns the Green Lake, Graham Lake, and Ellsworth dams to limit the annual variation in lake water elevation to no more than 4 vertical feet and adhere to practices that will enable Green, Graham, and Leonard Lakes to comply with Maine water quality standards and achieve improved environmental and recreational benefits.

Recommendation W-23: Request that the DEP establish clear, numerical standards for turbidity, and raise expectations for water quality when issuing water quality certificates for the renewal of dams.

Recommendation W-24: Undertake independent, periodic water quality checks of all impoundments created by dams on the Union River, to monitor and enforce water quality standards.

Recommendation W-25: Advocate for the construction of safe and effective up- and downstream fish passage on all Union River dams within three to five years of federal relicensing, with immediate loss of certification if the fishways are not fully operational at the end of five years.

Recommendation W-36: Once the turbidity, runoff, and stormwater issues along the downtown waterfront have been addressed, dredge the river channel to reduce sediment buildup.

Recommendation W-37: Undertake a Union River watershed survey (including attention to dams and other crossings or barriers), supported by trained and supervised volunteer citizen scientists, and regularly update this survey every ten years.

Recommendation W-38: Drawing on a range of data in addition to the watershed survey, create a Union River watershed management plan that identifies overall goals and objectives for the watershed, areas currently requiring improvement, responsible parties for correcting any problems, and potential funding sources for private and public improvements.

Recommendation W-39: Request that all dams within the Union River watershed receive a state inspection, with any necessary repairs brought to the owner's attention.

Recommendation W-40: Post any publicly available data relating to Union River watershed dams on the Green Ellsworth website.

Recommendation W-41: Change current state legislation to make both the dates and the results of dam inspections publicly and regularly available.

Our plan and these recommendations were not developed by a consultant. Each section was developed by teams of citizens and representatives of local non-profit organizations—but those teams were clearly directed to focus on reflecting the emerging community consensus of the more than 2000 people (out of a 7,000+ population) who provided input through public forums, surveys, etc). The water chapter team consisted of more than 20 members including several highly qualified biologists. The representative strength of this plan led the City of Ellsworth to use it as a foundational document in revising its Comprehensive Plan (approved by City Council December 2024) which makes the following recommendations:

WR.2-f

Conduct a study of the impacts of current operation of dams on fish passage and wildlife habitat and take action to improve water quality and support well-being of native species.

WR.2-g

Coordinate with DEP and neighboring communities to ensure dams are inspected and monitored to be in compliance with dam operation standards, and consider other measures to help ensure safe operations.

WR.2-h

Pursue options for maintaining upstream and downstream fish passage on all dams and preventing fish from entering the turbines.

WR.4\*

Cooperate with neighboring communities and regional and local advocacy groups to protect water resources.

WR.4-b\*

Participate in local and regional efforts to monitor, protect, and, where warranted, improve water quality.

In reviewing Black Bear's proposal we find that it offers too little, too late and fails to provide adequate assurances that going forward they will operate with sufficient concern or action for restoring clear and clean water quality to the Union River or appropriate habitat for native fish species and other wildlife let alone for the basic recreational purposes of our citizens and visitors. The failure to address in any meaningful way the devastation caused by repeated fish kills and the lack of up and downstream fish passage also runs contrary to the need to restore native habitat and the recommendations of both our Green Plan and our city's new Comprehensive Plan.

We strongly advise against your issuing a water quality certificate to Black Bear.

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