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IN THE MATTER OF

BROOKFIELD WHITE PINE HYDRO LLC)	MAINE WATER QUALITY PROGRAM
Lewiston, Auburn, and Durham)	
Androscoggin County)	CLEAN WATER ACT
LEWISTON FALLS HYDROELECTRIC)	
PROJECT)	
L-29808-33-D-N (approval)	WATER QUALITY CERTIFICATION

To: Claire Briggs, Hydropower Specialist, Maine DEP
Re. Lewiston Falls Hydropower Water Quality Certificate, FERC No. 2302 or Maine Project L-29808-33-D-N
Date: June 26, 2026
Via email: Claire.Briggs@maine.gov

Re: Comments to Draft Water Quality Certification in the Above Captioned Application.

Claire,

On July 9, 2025 Brookfield White Pine Hydro (a wholly owned subsidiary of Brookfield Renewables) (Brookfield) submitted to the Maine DEP its application for Water Quality Certification (WQC) for the Lewiston Falls Hydroelectric Project (the “Application”), which is undergoing relicensing by the Federal Energy Regulatory Commission (FERC) as FERC Project No. 2302. On February 6, 2026 Friends of Merrymeeting Bay (FOMB) submitted comments and a standing statement in anticipation of the upcoming WQC. We incorporate those comments by reference. Thank you for the opportunity to review the now issued Draft Certification.

It is quite disappointing to see our condition request for language that could easily accommodate possible changes in water classification was not incorporated and we reiterate that request now as a common sense adaptive management measure. As you know, there have been long-time efforts to upgrade classification of the lower Androscoggin from Merrymeeting Bay to Gulf Island Pond (GIP) dam from a C to a B.

Two Triennial Reviews ago, over DEP objections, the BEP voted to recommend to the legislature they upgrade the lowest section from Worumbo dam to the Bay. This was passed by the legislature, signed into law by the Governor and encountered subsequent stumbling blocks created by a conflict with the Pejepscot WQC issued at Class C that were only resolved in favor of Class B by an appeal to the BEP. This is detailed in our February comments.

The Critical Importance of Adaptive Management measures in a WQC.

Clearly directing the licensee to comply with more restrictive measures than they proposed is not foreign to the DEP (See VII. Decision & Order at 3B regarding American Eel passage for proposed excellent requirements). Nor is the concept of adaptive management (3B ii. 5 at 41). To avoid future potential conflicts, we are again requesting inclusion of adaptive management conditions in the WQC pertaining not just to fish passage but to water quality as well. Other states have done so. For example:

The state of Colorado's Water Quality Control Commission's regulations (5-CCR-1002.82 et. seq.) explicitly provides for a [Conditional Certification](#) stating at Section 82.5 (A) (3): *"The Division may condition water quality certification on adaptive management to address changes in the Project's predicted impacts and/or future changes in applicable water quality classifications and standards. The Division, as a part of the conditional certification, may require water quality monitoring, based on site-specific circumstances, to ensure that BMPs are performing as designed and that the Project complies with all applicable conditions."* (italics supplied).

Similarly, Washington State's [WQC Guidance Manual Water Quality Certifications for Existing Hydropower Dams](#) (Publication #04-10-022, May 2005) states at page 20 that WQC General Conditions include: *"Conditions are subject to changes based on new relevant state or federal laws that reflect better understanding of how to protect beneficial uses."* and *"Conditions are subject to changes based on new information as may be necessary to meet water quality standards, TMDLs, and other applicable requirements of state law."* Washington's guidance further states at page 49 that an integrated aquatic species management plan should be designed and implemented and that the plan should include: *"Provisions for adaptive management as new technologies are developed and/or conditions change"*. (italics supplied).

Finally, the Clean Water Act itself in Section 401(d) delegates to states the authority to include conditions in a federal license or permit certification to ensure that a project complies with effluent limitations and *"any other appropriate requirement of State law"*. (italics supplied). This broad language is often used to enforce stricter future standards implanted at the state level.

Including a condition to comply with an upgraded classification if and when it may occur is of no consequence to the Department or the licensee if the river section of which the project area is a part is never upgraded. But if it is, this adaptive management measure offers a simple way to ensure compliance without the inevitable complications the draft WQC invites at page 43 section five of which will require a FERC reopener:

5. Water Quality

Upon any future determination by the Department that operation of the Lewiston Falls Project, as approved by the certification and as conditioned by FERC for the Project, may be causing or contributing to a decline in water quality or non-attainment of water quality standards, the Department reserves the right to, in its discretion and upon notice to the Applicant and opportunity for hearing in accordance with its regulations, reopen this

certification to consider requiring modifications to the certification or additional conditions as may be deemed necessary by the Department to ensure that the Project does not cause or contribute to any decline in water quality or non-attainment of water quality standards.

Unfortunately the Department has a long history of opposing water quality upgrades on the Androscoggin. That policy is now the subject of a federal lawsuit, Friends of Merrymeeting Bay v. U.S. Environmental Protection et al, U.S. District Court for the District of Maine, Docket No. 2:26-cv-00316-SDN (a copy of the complaint is available at <https://cybrary.fomb.org/pages/FOMB%20v%20EPA,%20BEP,%20DEP%20&%20Loyzim%206-18-26.pdf>), and regardless of the litigation outcome, there will be continued reclassification proposals through the Triennial Review process. Conceivably these proposals may result in classification upgrades of state waters following the issuance of a WQC.

FOMB's Proposed Language.

Our proposed WQC conditional provision is simple and universal:

“When and if a state water quality reclassification is upgraded by the Maine legislature becoming law, and inclusive of the water body of which licensee’s project area is a part; licensee shall comply with the new classification requirements within one year.”

Or the slightly more detailed and specific version:

And where, as here, given the history of changing and upgraded water quality classification with respect to the Androscoggin and the water bodies affected by the Lewiston Falls WQC and corresponding FERC license, the following conditional provision applies:

“Given the likelihood and possibility that water bodies within the project area may receive an upgraded water quality classification during the life of the renewed FERC license, this condition provides adaptive management flexibility ensuring the license and WQC holder will comply with improved federal or state water quality criteria if and when they may occur. The license holder shall meet current Class C water quality standards until such time as a classification upgrade to B may occur at which time the upgraded conditions shall be met as soon as reasonably practicable but no later than one year following the reclassification change.”

The problem of improved water quality held hostage to an inflexible 40 year WQC is not necessarily limited to the Androscoggin and could happen on any number of water bodies subject to FERC licensing.

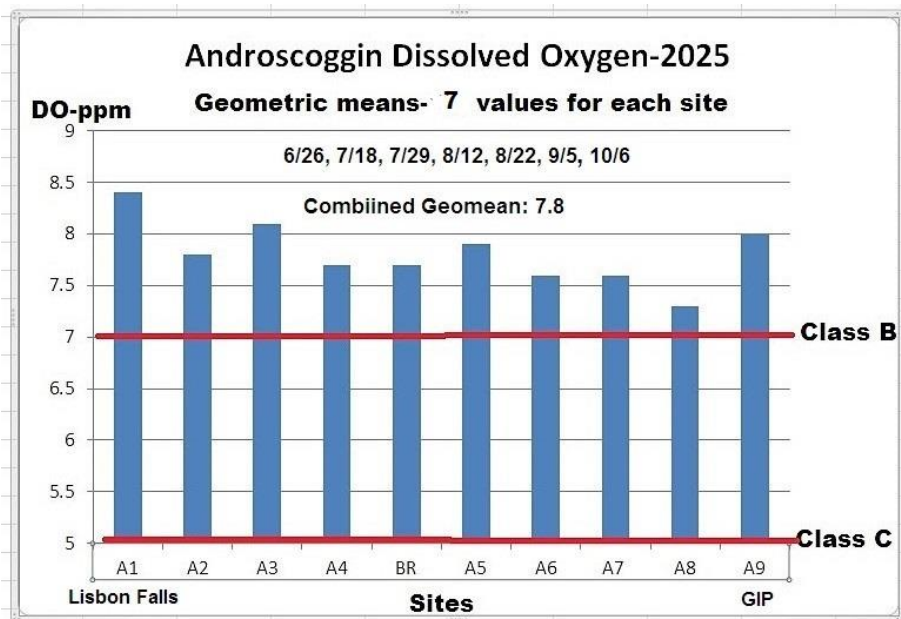
State and federal water quality goals and statutes call for continued improvement of water quality without any degradation. It is against the best interests of the state and contrary to water quality goals and laws to let a rigid WQC override improving water quality for upwards of half a century. This leads to an absurd result since, absent such an adaptive management condition, it does not allow easy adjustments for improved water quality or technology changes that may have

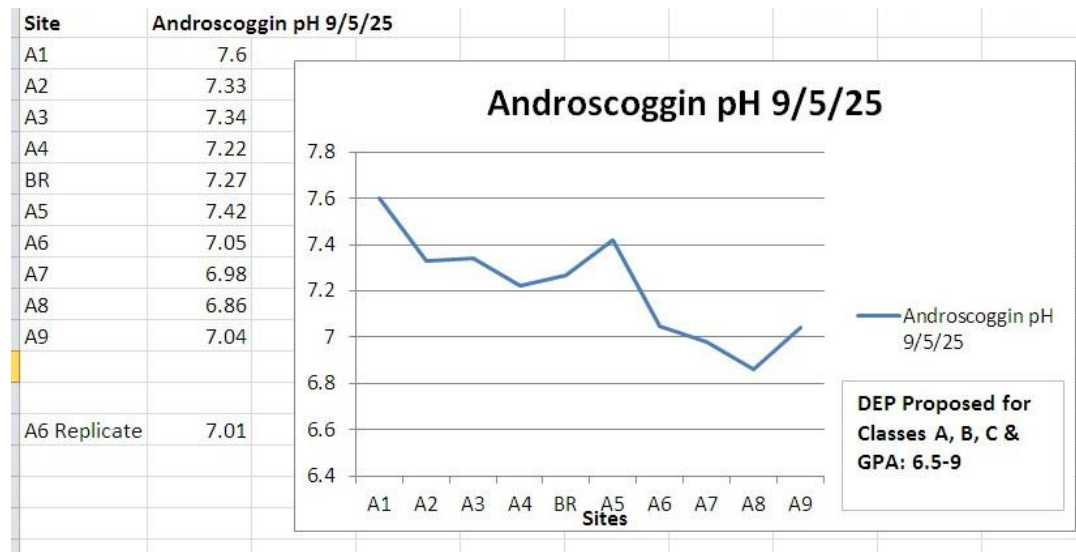
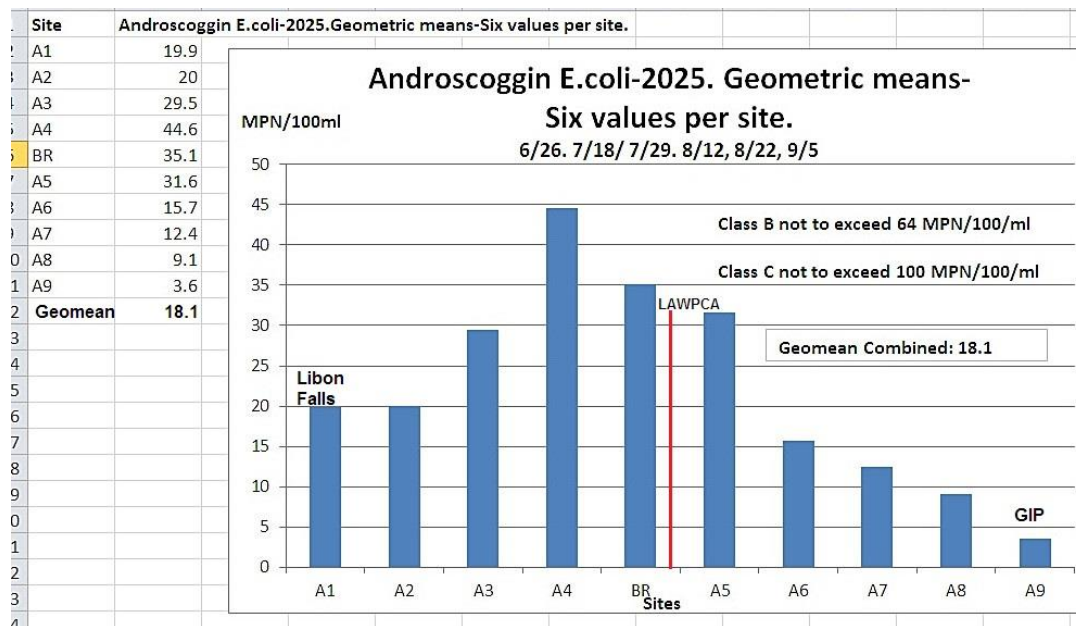
positive effects on efficiency, fish passage, water quality or climate change. Accordingly, simple **adaptive management conditional language in all WQC's should in fact be a standard WQC practice.**

Additional Specific Comments on the WQC.

1. Flow regime. We incorporate by reference the City of Auburn's comments on need for increased flows. Under the current and DEP/Brookfield proposals the falls look like a dried up old prune most of the time, simply unacceptable, particularly with the massive GIP reservoir just upstream.

2. Water classification. Old CMP continuous monitoring (<https://cybrary.fomb.org/pages/CMP%20DO%20Lewiston%20Falls%201990-1995%20DO%20study.pdf>) and 2022 Brookfield monitoring (cited in the draft WQC) show this section of river meeting Class B most of the time. The most recent and comprehensive longitudinal 2025 sampling by FOMB (<https://cybrary.fomb.org/pages/FOMB%20Helo%20Sampling%20Upper%20Lower%20Andro%202024-2025%20with%20pH.xlsx>) shows the upper lower section of Androscoggin inclusive of the project area meeting Class B 100% of the time. FOMB station A5 is just below the green bridge from Lewiston to Auburn, A6 is in the impoundment just below the Auburn boat launch and A7 is just below the actual Deer Rips at the upper edge of project impoundment. Station BR is below Dresser Rips and above I-95





	A	B	C	D	E	F	G	H
1	Date	Site	Time	DO mg/l	DO %	H2O Temp	Depth Ft.	E. coli
2	6/26/2025	A5	7:25	7.9	92.1	22.6	4	59.8
3	7/18/2025	A5	7:30	7.9	94.3	24.5	4	32.3
4	7/29/2025	A5	7:03	7.5	91.5	25	4	18.3
5	8/12/2025	A5	7:00	7.9	95.8	25.2	6	16
6	8/22/2025	A5	7:12	7.7	91.8	23.9	4	20.1
7	9/5/2025	A5	7:29	8.8	101.6	22.3	6	88.2
8			Geomean	7.9	94.5			31.6
9	10/6/2025	A5	7:23	8.2	87.7	18.3	3	9.5
10			Geomean	8	93.5			26.6
11	Date	Site	Time	DO mg/l	DO %	H2O Temp	Depth Ft.	E. coli
12	6/26/2025	A6	7:28	7.9	91.2	22.6	4	51.2
13	7/18/2025	A6	7:35	7.7	92.1	24.6	4	13.5
14	7/29/2025	A6	7:08	7.3	88.7	25	6	6.3
15	8/12/2025	A6	7:06	7.7	92.8	25.1	6	6.3
16	8/22/2025	A6	7:20	7.6	91	24.2	6	15.6
17	9/5/2025	A6	7:33	7.5	86	22	6	35
18			Geomean	7.6	90.3			15.7
19	10/6/2025	A6	7:27	8.1	86.1	18.4	6	7.5
20			Geomean	7.7	89.7			14.1
21	Date	Site	Time	DO mg/l	DO %	H2O Temp	Depth Ft.	E. coli
22	6/26/2025	A7	7:42	8	92.6	22.8	4	32.8
23	7/18/2025	A7	7:40	7.6	91.5	24.7	6	4.1
24	7/29/2025	A7	7:14	7.3	88.3	24.6	6	3.1
25	8/12/2025	A7	7:11	7.6	91.3	24.8	6	33.6
26	8/22/2025	A7	7:25	7.5	89.3	24.1	6	24.1
27	9/5/2025	A7	7:42	7.4	84.5	21.8	6	11
28			Geomean	7.6	89.5			12.4
29	10/6/2025	A7	7:32	8.1	85.4	18.1	6	8.6
30			Geomean	7.6	88.9			11.8

3. Aquatic life standard. The Department has a standard practice of noting a particular standard or characteristic meets or doesn't meet the current water quality classification but I have never seen it note when that characteristic meets the next *highest* classification. In this case, our most recent benthic macro invertebrate studies show Class B compliance at three sampling sites in the free flowing reach below the project area. These are representative of the river, not the little backwater on west side of the river immediately below the dam.

<https://cybrary.fomb.org/pages/FOMB%20BEP%20Triennial%20Comments%20and%20Report%20Compressed%2010-16-25.pdf>

Thank you for your consideration,



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