**Applicant’s Proposal to Address Aquatic Invasive Species**

*To address the potential threat of aquatic invasive species becoming established within the upper Passadumkeag River watershed upstream of the Lowell Tannery Project, applicant KEI (Maine) Power Management (II) LLC (Applicant) has developed the condition below in consultation with the Maine Department of Inland Fisheries and Wildlife. Applicant proposes that the Maine Department of Environmental Protection, when issuing the water quality certification for the Federal Energy Regulatory Commission’s relicensing of the Lowell Tannery Project No. 4202, include this proposed condition as a condition of the water quality certification.*

1) AQUATIC INVASIVE SPECIES

A. *Design and construction of fish sorting facility.* As part of its design and construction of a new upstream anadromous upstream fish passage facility pursuant to the Relicensing Settlement Agreement for the Lowell Tannery Project, FERC Project No. 4202 (dated July 2024) (Agreement), the Applicant shall design and construct a fish sorting facility at the Lowell Tannery Project No. 4202 (Project).

The Applicant shall consult with the Maine Department of Inland Fisheries and Wildlife (MDIF&W), Maine Department of Marine Resources (MDMR), U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and the Penobscot Nation (Nation) in the design of the fish sorting facility and its integration with the new upstream anadromous fish passage facility developed under the Agreement. Based on this consultation, the final design and construction of the fish sorting facility shall meet the following requirements:

1. The fish sorting facility shall prevent the passage and upstream spread of aquatic invasive threats identified by the MDIF&W;
2. The fish sorting facility shall not adversely affect any endangered or threatened species under the Endangered Species Act; and
3. The fish sorting facility shall not adversely affect the ability to achieve performance standards of the new upstream anadromous fish passage facility developed in accordance with the subsequent FERC license.

The development of alternative strategies for controlling the establishment of aquatic invasive species in the Passadumkeag River watershed upstream of the Lowell Tannery Project may be explored, but will not delay timely operation of the constructed fish sorting facility as outlined under section 1.B below so as to prevent upstream passage of an identified threat.

Unless otherwise provided under the Agreement or this Condition, the Applicant shall complete the construction of the fish sorting facility no later than the start of the 8th upstream passage season following the Federal Energy Regulatory Commission’s issuance of the subsequent license for the Project.

B. *Deferred operation of fish sorting facility.* Unless and until MDIF&W documents, supported by the best available scientific and technical information, the threat of a new aquatic invasive species in the Penobscot River likely to enter the Passsadumkeag River watershed downstream of the Project (hereinafter, an “AIS threat”), the Applicant shall not be required to operate the fish sorting facility. Upon notification by MDIF&W of a new invasive threat, KEI will operate the sorting facility in a timely manner so as to prevent upstream passage of the identified threat. Except as mandated under federal law, this action will not be delayed by any pending consultation.

C. *Commencement of operations of fish sorting facility.* In the event that MDIF&W notifies the Applicant, in writing, following consultation with the Applicant, FERC, MDMR, USFWS, NMFS, and the Nation, of an AIS threat that cannot be effectively managed by any existing natural impediment in the Passadumkeag River, the Applicant shall operate the fish sorting facility seasonally, whenever the new upstream anadromous upstream fish passage facility is operating to pass fish upstream of the Project’s dam and likely to exacerbate the AIS threat.

After commencing operations of the fish sorting facility, the Applicant is authorized to suspend or terminate operations of the fish sorting facility, as appropriate: (i) whenever the new upstream anadromous upstream fish passage facility is not operating to pass fish upstream of the Project’s dam; (ii) after MDIF&W notifies the Applicant, in writing, that the AIS threat has been abated; or (iii) in the event MDEP determines, following consultation with the Applicant, MDIF&W, MDMR, USFWS, NMFS, and the Nation, that continued operation of the fish sorting facility would not meet one or more of the criteria listed in section 1.A above.

D. *Fishway Operations and Maintenance Plan (FOMP)*. The Applicant shall establish the operation and maintenance requirements of the fish sorting facility in consultation with MDIF&W, MDMR, USFWS, NMFS, and the Nation, which requirements shall be included in an amendment to the FOMP developed in accordance with the Agreement.

E. *Future adjustments for controlling aquatic invasive species.* The Applicant is authorized to adopt alternative means of addressing any AIS threatas may be proposed by the Applicant and approved by MDEP following consultation with the Applicant, MDIF&W, MDEP, USFWS, NMFS, and the Nation, including technologies that may be developed in the future that may have reduced operating costs.