

July 30, 2026

Mr. John Perry
Environmental Review Program Supervisor
Maine Department of Inland Fisheries and Wildlife
41 State House Station
Augusta, ME 04333



Ms. Elizabeth Latti
Director of Fisheries and Hatcheries
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Ms. Laura Paye
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Maine Department of Environmental Protection
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Transmitted electronically

Subject: Request for Coordinated Enforcement Action Supporting TU's Requests to FERC — Third Trip Event, Fish Kill, and Forest Fire in Four Years at McKay Station (Ripogenus Project, FERC No. P-2572)

Dear Mr. Perry, Ms. Latti, and Ms. Paye,

We are writing to ask the MDEP and MDIFW to take action, outside the relicensing docket, and urging FERC to take action in connection with the existing Ripogenus Project license conditions and outside of the current relicensing to support stakeholder requests arising from this and other events, and to follow that with support for the Coalition's Joint FLA Comments related to the relicensing once they are filed. Six months have passed since our last letter notifying you of environmental harm and impacts resulting from these dam generator "trip events," which dramatically disrupt downstream flows and, in some cases, create wildfire hazards. To date, despite these notifications, nothing has happened to improve the situation on the ground. On July 27, 2026, another event predictably occurred.

That afternoon, a connection failed on a distribution pole near the Golden Road, across from Holbrook Brook. There was no wind and no thunderstorm; the connection simply failed, strongly implying a failure in basic maintenance by the dam owner and operator or, at a minimum, a failure to take steps to reduce the occurrence of these events. The electrical failure knocked out flows below McKay Station for at least two hours and the downed wire ignited a forest fire under the power line that was fortunately extinguished by local volunteers and the U.S. Forest Service before it could spread uncontrollably. Dead fish due to the low flows were documented in numbers at Little A Rapids—a reach with an established study baseline from the Stranding and Ramping Studies conducted for this FERC relicensing, which, as you know, is ongoing. A summary and photographs documenting some of the environmental harm resulting from this event are attached to follow this letter. TU has also developed a preliminary, reach-based extrapolation from the confirmed count: an estimated 3,860 landlocked salmon mortalities, with a reasonable upper limit—not a confirmed count—of roughly 7,700 if stressed fish released alive but assumed unlikely to survive are included; the attached summary explains the methodology and its assumptions.

This is not an isolated failure. It is the same pattern that killed fish and started a forest fire on June 17, 2025, which we reported to Ms. Paye at the time, and which itself followed a July 7, 2023 trip event with the same result—three events in the last four years. By Brookfield's own admission to FERC, these generator trip events occur roughly once a year. After the 2023 event, FERC directed Brookfield to consult with FWS, MDIFW, MDEP, and Maine LURC to identify measures to reduce stranding "until the current relicensing process is concluded." Brookfield's response, as we told FERC in our January 16, 2026 letter (Accession No. 20260116-5019), "did little more than preserve the status quo." That letter asked FERC, at minimum, to direct installation of an independent USGS flow/temperature gage at Telos Bridge; in its absence, to direct a continuous 400 cfs buffering flow through a deep gate to mitigate future trip events; and to direct Brookfield to return a dam keeper to Ripogenus Dam to reduce outage duration. Six months later, none of these measures has been undertaken by Brookfield, and as a consequence a third event has now occurred.

We are also renewing our request, made formally in the relicensing proceeding in our June 30, 2025 comments on Brookfield's AIR response (Accession No. 20250630-5044, pp. 2, 7), for redundant power lines connecting McKay Station to Millinocket—eliminating the single point of failure that caused this outage and the two before it.

We believe this history—three fish-kill events in the last four years (2023, 2025, and 2026), tied to the same recurring equipment failures, constitutes a continuing violation of Articles 402 and 403 of the current license, and we are asking FERC to treat it as one. Consultation without a deadline or a remedy has had years to work and has not.

The Ripogenus Water Quality Certification (WQC-0001, issued April 15, 1993, effective for the term of the current FERC license) requires the same thing in state terms: a daytime recreational flow of at least 2,000 cfs (1,800 cfs in wet or dry months) from May 1 to September 15, restored "as soon as possible following any outage." The certification excuses shortfalls during "operating emergencies beyond the applicant's control," including equipment failure—but that exception was written for an unforeseen failure, not a known, specific vulnerability Brookfield has been asked in writing, twice, to fix and has not. This is unacceptable. Three failures at the same point of weakness in four years are no longer beyond Brookfield's control in any meaningful sense, and we do not believe MDEP or FERC has to accept them as such.

These events are also remarkably similar to another development operated by Brookfield, the Graham Lake/Ellsworth Dam Project, which has had repeated fish kills due to operational error during known fish and eel migration periods. Ms. Paye will know this history firsthand; for Mr. Perry and Ms. Latti's benefit, we lay it out briefly. Brookfield's Ellsworth Project on the Union River (FERC No. 2727) is a preview of what happens without enforcement. That project's license expired in 2017. Its first Water Quality Certification application was denied by MDEP in 2020 on three independent grounds—impacts to the benthic macroinvertebrate community below Graham Lake Dam, failure to meet Class B narrative standards on the Union River, and failure to meet dissolved oxygen standards in Leonard Lake—a denial the Board of Environmental Protection upheld on appeal in 2021. Brookfield applied again in June 2025, and MDEP denied that application too, on June 4, 2026, on the same three grounds plus a new failure to demonstrate safe, timely, and effective passage for Atlantic salmon, American shad, blueback herring, and alewife. Nine years after its license expired, Ellsworth is still operating on successive annual licenses, with no new license in sight, because Brookfield keeps refiling rather than fixing the underlying problems. Left to this same pattern of behavior, the Ripogenus and Penobscot Mills Projects will end up in exactly the same place—repeated fish kills and other harm caused by the dam owner and operator's failure to address and eliminate known causes. Here, due to Brookfield's aging electrical infrastructure, wildfire risk has been demonstrated as well.

We are asking you to act now, independent of and outside the relicensing docket: to open a dialogue with FERC to remedy these events immediately in connection with the current license terms and write to FERC in the relicensing compliance record documenting state agency knowledge of this trip event, and urging the Commission to support TU's requests—the USGS flow/temperature gage at Telos Bridge, the 400 cfs buffering flow through a deep gate, a returned dam keeper at Ripogenus Dam, and redundant power lines to Millinocket. Each of you is independently authorized to raise these concerns with FERC, which is authorized to enforce

the existing license terms, including the state WQC conditions that were previously adopted as license conditions. We further assert that 38 M.R.S. § 347-A likewise gives MDEP authority to investigate a violation of a Department order, license, or approval, including the previously issued Water Quality Certification, and issue a Notice of Violation before initiating a civil enforcement action, with penalties available under 38 M.R.S. § 349 if that route is also useful, and we believe Brookfield's failure to prevent these repeated trip events warrant this action and can complement FERC enforcement.

We anticipate filing comprehensive joint NGO and Association comments on Brookfield's FLA in the current relicensing and also ask that you follow this action with support for these comments and for the Coalition's Joint FLA Comments when they are filed with FERC, particularly with respect to measures proposed to mitigate or eliminate environmental harm associated with these trip events.

We do not believe there is another effective mechanism, short of time-consuming and costly litigation, that is likely to prevent these recurring events. A coordinated effort by FERC and the State agencies offers the best opportunity to achieve meaningful corrective action.

Thank you for your attention to this. We are glad to provide any further information you need or address any questions you may have.

Sincerely and respectfully,

A handwritten signature in blue ink, appearing to read "Stephen Heinz", with a stylized flourish at the end.

Stephen G. Heinz
Maine TU Council FERC Coordinator

Attachment: July 27, 2026 Trip Event — West Branch below McKay Station

On the afternoon of July 27, 2026, a connection failed on a pole near the Golden Road, directly across from Holbrook Brook. There were no wind and no thunderstorm — apparently, it just failed. The failure knocked out flows below McKay Station and started a small fire under the power line. Todd Mercer and a few other people went up with backpack pumps and did fire suppression until the Forest Service arrived; a helicopter was also seen over the area, presumably to see if the fire had spread.

Flow at Big Eddy was down to around 450 cfs by 4:30 PM, well below the normal 1,700-2,400 cfs range, and Sarah Sindo says normal flow wasn't restored until between 6:30 and 7:00 PM — an outage of at least two hours. During the outage the required flow wasn't coming from the generators. Brookfield will presumably give exact times and more detail when it files its required flow deviation report.

This is very similar to the June 17, 2025 event — that one was a cross-arm failure, this one was a connection failure, but otherwise the pattern is the same: dewatering, dead fish, and a forest fire. TU's own letter to MDEP after the 2025 event noted that this wasn't even the first time a Brookfield cross-arm failure had started a forest fire, so this is at least the third occurrence. This time, though, it's much better documented — dead fish were found and photographed at Little A Rapids, a reach already surveyed during the Stranding and Ramping Studies, whereas the 2025 event could only be documented with a single dead perch and a stranded crayfish because nobody could safely get to the stranding areas in time.

To get a sense of scale, TU expanded the Little A count using the habitat it represents. The searched 300-foot reach was treated as one representative unit of the roughly 48,000 feet of similar riffle habitat (both banks) between McKay Station and the head of Nesowadnehunk Deadwater — about 161 comparable units. Scaling up the confirmed dead fish alone gives an estimated 3,860 landlocked salmon parr, along with roughly 480 brook trout parr, 965 dace, 320 suckers, and 640 sculpins. Observers also released a similar number of stranded but still-moving fish, assumed likely to die from delayed stress within a day or two; if those are counted too, the landlocked salmon estimate rises to roughly 7,700 — a reasonable upper limit, not a confirmed count, since it depends on an assumption about fish TU did not actually recover. Using that upper-bound figure and published salmon survival rates, TU projected the lost fishing opportunity forward through 2032: roughly 140 angler-trips, valued at about \$51,000 in combined consumer surplus and economic impact, using 2025 Angler Survey catch and value data. This is a preliminary, reach-based extrapolation, not a certified count, and should be read as illustrative of scale rather than a precise loss figure.

Fire photos and dead fish photos are provided below.

Fire



Fire suppression with a backpack water pump.



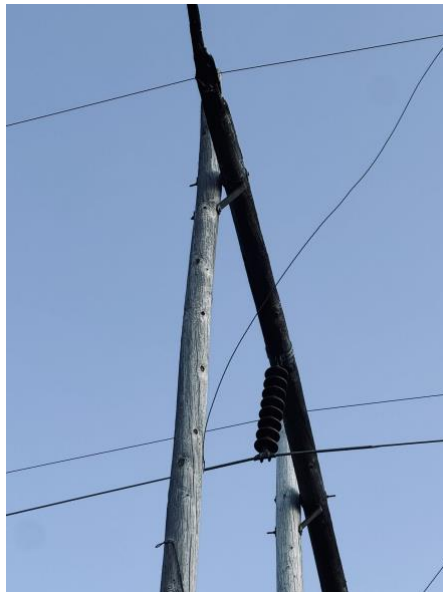
Smoke rising over the tree line from the fire site.



A helicopter over the fire site that afternoon



Broken, scorched insulator string on the ground amid burned understory vegetation.



The affected pole span — visible split near the top of the right-hand pole.

Todd Mercer photos

Dead Fish



Dead juvenile salmonids and sculpins recovered at Little A Rapids.



Additional dead fish from the same location, with a sculpin held for scale.

Chris Howe photos