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GOVERNOR

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

PATRICK C. KELIHER
COMMISSIONER

March 19, 2020

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

RE: Shawmut Project (FERC No. 2322-060)

Dear Secretary Bose:

In a December 31, 2019 filing to FERC, Brookfield White Pine Hydro, LLC, Merimil Limited Partnership, and Hydro-Kennebec, LLC (collectively "Brookfield") submitted its *Proposed Lower Kennebec Species Protection Plan for Atlantic Salmon, Atlantic Sturgeon, and Shortnose Sturgeon and Draft Biological Assessment* (SPP). This plan was nearly identical to a draft version of the plan submitted for comment to the resource agencies in which Maine Department of Marine Resources (MDMR) had significant concerns, reflected in comments provided in attached letters dated June 6, 2019 to Brookfield and a November 22, 2019 letter to the Maine Department of Environmental Protection (MDEP) provided to Brookfield on November 29. As provided in Brookfield's December 31 filing, MDMR did participate in multiple meetings with Brookfield and discussed aspects of this proposal. However, this participation does not represent our concurrence with the proposed activities regarding the protection of ESA listed Atlantic salmon and other species.

MDMR finds that on the basis of our management goals and activities, analysis of river-specific data, and a federal recovery plan (USFWS and NMFS 2019), the cumulative impacts of the four lowermost hydropower projects in the mainstem Kennebec River, including the Shawmut Project, and the Licensee's SPP, will result in significant adverse impacts on the recovery of endangered Atlantic salmon and on the restoration of alewife, blueback herring, American shad, sea lamprey, and American eel to their historic habitat in the Kennebec River. MDMR analysis using the best available scientific information indicates that the SPP proposed by the Licensee would preclude the ability to recover ESA listed Atlantic salmon in the entire Distinct Population Segment (DPS). Given these significant impacts, MDMR would like to restate our August 9, 2017 recommendation that the Commission analyze the impacts of the project by preparing an Environmental Impact Statement (EIS) rather than an Environmental Assessment (EA). Further, MDMR fully supports the proposal made by the National Marine Fisheries Service (NMFS) in their letter to the Commission dated February 7, 2020 that the construction of a new fishway ordered by the Commission in a license amendment on May 19, 2016 be included exclusively in

the ongoing Shawmut relicensing process and not proceed before that process is completed. It was NMFS' opinion that this proposal "would allow for a more comprehensive evaluation of the effects of the action on federally-listed species" and would allow the Commission and other stakeholders to have "the opportunity to evaluate whether or not the proposed upstream fishway at Shawmut is best adapted to a comprehensive plan for developing the waterway for beneficial public purposes, consistent with the intents and purposes of hydropower project licensing under the Federal Power Act."

Please contact Gail Wippelhauser at 207-624-6349 or gail.wippelhauser@maine.gov if you have any questions.

Sincerely,



Patrick C. Keliher, Commissioner

cc: Sean Ledwin, Gail Wippelhauser, Paul Christman, DMR
John Perry, Jason Seiders DIFW
Kathy Howatt, DEP
Antonio Bentivoglio, Steven Shepard, USFWS
Sean McDermott, Jeff Murphy, Matt Byoff, NOAA