

August 18, 2021

Kathy Davis Howatt
Hydropower Coordinator
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

**Re: Shawmut Hydroelectric Project FERC No. 2322-060 (the “Project”)
Section 401 Water Quality Certification (DEP Application # L-19751-33-H-N) (the
“WQC Application”)**

Dear Ms. Howatt:

Brookfield White Pine Hydro LLC hereby withdraws its August 28, 2020 application for water quality certification, a step we feel is necessary given the apparent confusion around the details and status of Brookfield’s application with the Federal Energy Regulatory Commission (FERC) for a new license for the Project.

Brookfield greatly appreciates the Department’s efforts processing our water quality certification application for the Shawmut Project over the past year. Unfortunately, based on our evaluation of the draft Order denying our WQC Application provided on August 11 (“Draft Order”), it is clear that the Department’s review did not account for a number of significant developments that have occurred since Brookfield submitted its WQC Application. In particular, the Department’s singular focus seems to have been Brookfield’s January 31, 2020 FERC license application, but that application no longer reflects the protection, mitigation, and enhancement measures expected in a new FERC license for the Project.

The Department’s review did not account for the significant changes and additions to the proposal over the last twelve months, as well as additional analyses that have been developed by Brookfield and other agencies during that time. These include, for example, FERC’s Draft Environmental Assessment (DEA) issued on July 1, 2021, Brookfield’s draft Biological Assessment (BA) and Species Protection Plan (SPP) filed with FERC on May 31, 2021, and the fish passage prescriptions provided by the federal departments of the Interior and Commerce that will become mandatory conditions in the new license. Previous Department decisions, in contrast, have considered FERC DEA analyses as well as required measures such as Section 18 prescriptions. Yet the Department’s review simply did not account for these significant changes and, as a result, the Draft Order does not reflect the proposed project as it

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currently stands. For example, Section 1.1 of the Draft Order lists a summary of twenty-two Proposed Operation and Protection, Mitigation and Enhancement Measures—yet our review found that six of these measures have been amended or superseded and that several new measures are not adequately described.

It is unclear to Brookfield whether the Department has reviewed and analyzed whatever data and methodology underlies the recommendations of the Department of Marine Resources (DMR). The DMR has submitted detailed recommendations to the Department which claim to be based on exacting analysis, but it appears that none of the underlying analysis or data on which those recommendations are based is part of the administrative record underlying the Department's draft decision on the WQC Application. We therefore request that the Department gather this data from DMR and share it with Brookfield and make it part of the record so it may be critically assessed in the context of our forthcoming new application for water quality certification.

Given the complexity of the parallel federal regulatory processes as well as the limited amount of time to update and clarify the administrative record, Brookfield withdraws DEP Application # L-19751-33-H-N. Brookfield will file, within the next 60 days, a new application for Water Quality Certification reflecting the substantial revisions resulting from the DEA as well as the BA and SPP filed subsequent to our previous application. This new application will clearly lay out the updated proposal to reflect mandatory conditions and additional Brookfield-proposed measures, provide additional analyses, and reflect new regulatory developments affecting the Project from the last year. Finally, we understand that the submission of a new application will start a one-year period for the Department's review under the Clean Water Act and we would not take a contrary position.

Please feel free to contact me by phone at (207) 755-5605 or by email at Randy.Dorman@BrookfieldRenewable.com.

Sincerely,



Randall Dorman
Licensing Manager
Brookfield Renewable U.S.

cc: Ms. Kelly Maloney, Brookfield Renewable
Ms. Wendy Bley, Kleinschmidt Associates