

**State of Maine
Department of Environmental Protection
In the Matter of:**

Green Lake Waterpower Company)	Maine Water Quality Program
Green Lake Hydroelectric Project)	Clean Water Act
Project # L-020024-33-D-N (Approval))	Water Quality Certification

Pursuant to the Opportunity to Comment notice issued on March 14, 2024 by the Maine Department of Environmental Protection (“DEP”), Elizabeth W. Whittle,¹ Andrew Hamilton,² and the Green Lake Association Board of Directors³ (“Commenters”) file these Comments to the draft Water Quality Certification (“draft WQC”) for the Green Lake Water Power Company’s (“GLWP”) hydroelectric project (FERC Project No. 7189).

According to the Notice and the draft WQC, a final WQC will be issued pursuant to Section 401 of the Clean Water Act⁴ (“Section 401”) and the provisions of 38 M.R.S. §§ 464 *et seq.* and related Department Rules and Regulations.⁵ While the conditions that actually address water quality appear appropriate, the open-ended requirement for undefined, unjustified and unduly broad prospective fish passage at the Green Lake dam is wholly inappropriate and inconsistent with Section 401 and the FERC’s comprehensive licensing jurisdiction, which reserves fishway prescriptions for the United States Department of Interior under Federal Power Act (“FPA”) Section 18.⁶ This open-ended fishway prescription is not only inconsistent with DEP’s obligations under Section 401 and made without the necessary study or justification, but

¹ Elizabeth W. Whittle owns a property on Green Lake in Dedham, Maine that has been in her family since 1928.

² Andrew Hamilton owns property on Green Lake in Ellsworth, Maine.

³ The Green Lake Association was formed in 2007 for charitable, educational and scientific purposes. Its objective is to advance and protect Green Lake as a valuable and natural resource.

⁴ 33 U.S.C. §§ 1341 *et seq.*

⁵ Department Rules 06-096, CMR Chapters 579-581.

⁶ 16 U.S.C. § 811.

the fishway condition would threaten the viability of the GLWP as a licensee, the aesthetic, recreational and economic value of a unique water body, and the value of adjacent residences and property. The fishway condition should be removed from a final WQC issued for the project as outside of and beyond agency authority to prescribe a condition that is not based on the necessary study and consultation and detrimental to the lake, its character and community.

I. BACKGROUND

A. GLWP Project

The Green Lake hydroelectric project (FERC Project No. 7189) is a small hydro project that produces approximately 500 kW located on Green Lake and Reeds Brook in Ellsworth, Maine (the “Project”). The dam has been in place since the early 1900s. On March 31, 2022, GLWP filed an Application for New License (“License Application”). GLWP does not propose to change operations during a new license term. Its current license expired on March 31, 2024.⁷ The Ellsworth project (Project No. 2727), a two dam project, is located approximately 4 miles downstream of the Project on the Union River.⁸ The two projects are independently owned and operated. The GLWP Project area is part of the Union River watershed.⁹

GLWP operates the project which serves a number of functions, including, but not limited to: (1) maintain recreational use; (2) promote spawning of a native population of arctic charr; (3) protect against flooding; and (4) provide clean lake water to the Green Lake National

⁷ See *Green Lake Water Power Company*, 27 FERC ¶ 62,023 (1984). The project will operate on an annual license until the FERC issues a new license. *Green Lake Water Power Company*, Notice of Authorization for Continued Project Operation, order issued Apr. 10, 2024.

⁸ The Ellsworth project is undergoing re-licensing and that project is awaiting resolution of its Section 401 water quality certificate.

⁹ Green Lake is a critical habitat for Atlantic salmon (not an essential habitat) as defined by the National Marine Fisheries Service. See License Application, Exhibit E at 5-55.

Fish Hatchery, one of two US Department of Interior Atlantic salmon fish hatcheries located in Maine.¹⁰

GLWP actively operates the Project to achieve these objectives and controls the project operations manually. In addition to the existence of a native population of arctic charr (it is one of the few lakes in the United States with a population of native arctic charr),¹¹ Green Lake also contains a native population of landlocked salmon.¹² In fact, it is one of the only lakes in the United States with a native population of both.¹³

GLWP draws the lake down beginning around Labor Day and the drawdown is usually completed by October 15. The lake is refilled by the spring when snow melt, runoff and spring rain arrives.¹⁴ The timing of drawdowns supports fish spawning. Green Lake is classified as a Class GPA water – the highest water quality for great ponds in Maine.¹⁵

B. FWS Prescription Settlement

On January 26, 2024, GLWP and U.S. Department of Interior, Fish & Wildlife Service (“FWS”) filed with FERC a settlement agreement which reflects the agreed-upon fishway prescription that will apply for the new license term. The fishway prescription conditions are to

¹⁰ See <https://www.fws.gov/fish-hatchery/green-lake>. The Project supplies up to 30 cfs to the fish hatchery.

¹¹ See Green Lake Water Power Company, Project No. 7189, Comments of the Native Fish Coalition, dated February 2, 2022 at 2 (“[i]t is our [Maine Department of Inland Fisheries] belief now that the Green Lake Arctic charr population is indigenous and did not originate from stocking.”) (“Native Fish Coalition”).

¹² License Application, Exhibit E at 5-24-27.

¹³ See, Bangor Daily News, “*It’s time to stop playing cat-and-mouse with categorization of Green Lake’s native Arctic charr.*” <https://www.bangordailynews.com/2022/03/14/outdoors/its-time-to-stop-playing-cat-and-mouse-with-categorization-of-green-lakes-native-arctic-charr-xoasq1i29i/> See also, Native Fish Coalition Comments at 2.

¹⁴ License Application, Exhibit A at 2-16.

¹⁵ 38 MRSA §§ 465(A). DEP states that “[t]he portion of the Union River at issue, the outlet of Green Lake (Reeds Brook), is designated as Class B. See draft WQC at 6.

be incorporated into a new license consistent with FPA Section 18. The FWS will retain prescriptive authority for the term of the new license.¹⁶

C. Draft WQC

DEP acknowledges that GLWP's project is "designed to maintain recreation values, allow water supply for [the FWS Fish Hatchery], protect arctic charr spawning habitat, and maintain sufficient flow in Reeds Brook."¹⁷ DEP in its draft WQC reviews the operating schedule of GLWP under its existing license, noting that (i) GLWP draws down the lake during fall and winter, beginning after Labor Day and completing drawdown by October 15 to allow for arctic charr to spawn; (ii) GLWP allows the lake to partially refill in winter but draws it down again prior to spring runoff to protect against flooding (maintaining strict limits to protect arctic charr eggs); and (iii) GLWP restores the lake levels and maintains them at between elevations 159.7 feet and 160.7 feet by June 1 through Labor Day. Yet, DEP then asserts that "[t]he project is managed in part as a component of a water storage system for downstream power generation"¹⁸ and then references Project No. 2727, owned and operated by Brookfield Renewable Energy Group ("Brookfield"), an entity with which DEP is engaged in litigation over the WQC for that project.

DEP articulates the applicable state water quality standards for Green Lake (GPA) and Reeds Brook (Class B).¹⁹ DEP states the applicable designated use characterizations, numeric standards, and narrative standards.²⁰

¹⁶ FWS Settlement Agreement at section 1.15.

¹⁷ *Id.*

¹⁸ Draft WQC at 4.

¹⁹ Draft WQC at 7.

²⁰ *Id.*

DEP's findings are that "the Department finds that the Project impoundment meets applicable Class GPA water quality standards and is free of culturally induced algal blooms. The Department further finds that the Project operations meet the designated uses of recreation in and on the water, fishing, and navigation."²¹ The DEP makes similar findings on other categories of water quality assessed and described in the Department Rules.²²

With respect to aquatic habitats, DEP asserts that, "[b]y influencing the flow of the water, the dam and its discharge impacts the ability of fish to pass the section where the dam is located. By influencing fish passage, the dam and its discharge affect the biological integrity of the waters in the Union River downstream. DEP states that "[t]he department understands biological integrity to generally mean the ability of an aquatic ecosystem to support and maintain a balanced, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitats within the region."²³

DEP recites the FWS FPA Section 18 prescriptions filed with FERC by FWS on January 26, 2024. DEP proposes in the draft WQC to require GLWP to obtain DEP concurrence for final design plans for trashrack modifications, and for eel-related facilities.²⁴ FWS has prescription authority and those conditions would be a term and condition of the new License whether or not included in a WQC so, while unnecessary, remain consistent with the FWS settlement agreement.

Most objectionable, however, is DEP's forward-looking condition on the passage of other species not currently residing in Green Lake ("Fishway Condition"). DEP states:

²¹ Draft WQC at 11.

²² Draft WQC at 12-18.

²³ *Id.* at 17, n.12.

²⁴ Draft WQC at 27.

[i]f passage for one or more of these species at the Ellsworth Project is required by a new license, or established through another means such as dam removal, then within six-months of the issuance of such new license or application for dam removal, the Applicant must implement fish passage at the Green Lake Project for the same species.” Fish passage facilities must be designed and implemented in consultation with MDMR and MDIFW.²⁵

Note that FWS did NOT prescribe fish passage other than that identified in the FPA Section 18 prescription for eels. This Fishway Condition should not be included in a final WQC. It is not justified by the facts at Green Lake and is an expansion of DEP’s jurisdiction beyond that of water quality. Even under DEP’s definition of “biological integrity” this condition is not appropriate. Finally, this condition will render the 500 kW small hydro project uneconomic. That could have broad implications for the aesthetic, recreational and economic value of Green Lake and irreparably impact adjacent property owners and the broader Hancock County community.

II. ARGUMENT

A. The Fishway Condition Is Not Appropriate for the Green Lake Project

1. The Fishway Condition is an impermissible expansion of DEP’s jurisdiction

The Fishway Condition is an impermissible expansion of the DEP’s jurisdiction. The FPA contains a comprehensive statutory program for hydroelectric licensing. FERC has jurisdiction to issue licenses under FPA Section 10. FERC must ensure that

the project adopted . . . shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, for the adequate protection, mitigation, and enhancement of fish and wildlife (including related spawning grounds and habitat), and for other beneficial public uses, including irrigation, flood control, water supply, and recreational and other purposes. . . .²⁶

²⁵ Draft WQC at 28. *See also*, draft conditions 3F-H.

²⁶ 16 U.S.C. § 803(a)(1).

Other state and federal agencies have conditioning authority within their areas of expertise.

- The FERC may not issue a license to construct and operate a hydroelectric project unless the certifying agency either issues a WQC or waives certification. A WQC, once issued, becomes a mandatory term and condition of the license.
- FPA Section 18²⁷ provides that the FERC must require the construction, maintenance, and operation by a licensee of such fishways as may be prescribed by the Secretary of Commerce or the Secretary of Interior, as appropriate.
- Section 7(a)(2) of the Endangered Species Act of 1973 (“ESA”)²⁸ requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of federally listed threatened and endangered species or result in the distribution or adverse modification of their designated critical habitat.
- Section 307(c)(3)(A) of the Coastal Zone Management Act²⁹ provides that FERC cannot issue a license for a project located within the coastal zone under the CZMA agency concurs with the license applicant’s certification of consistency with the state’s CZMA program.
- Section 106 of the National Historic Preservation Act³⁰ requires FERC to take into account the effect of any license effects on listed or eligible for listing the National Register of Historic Places.
- FERC also considers the impacts of proposed licenses on environmental justice communities.

As is clear from above, FERC’s licensing authority takes into account multiple state and federal agency views in fashioning license conditions. With respect to fish passage, in this case, FWS issued its prescription for the project under FPA Section 18, and expressly stated that it “will not prescribe fishways for migratory species other than American eel in its Modified

²⁷ 16 U.S.C. § 811.

²⁸ 16 U.S.C. § 1536(a).

²⁹ 16 U.S.C. § 1456(c)(3)(A).

³⁰ 54 U.S.C. § 306108.

Prescription to be included in the new license for the Project.” FWS also expressly reserves its authority, as is typical.³¹

Fish passage and fishways are within the jurisdiction and expertise of FWS. FWS determined that, for the term of the license, only eel passage is required. DEP, in overstepping and requiring additional fish passage, is acting inconsistently with FWS’ prescription, and outside DEP’s conditioning authority. DEP should respect the expertise of FWS and remove the Fishway condition. DEP cannot do indirectly what it cannot do directly.³²

In addition, DEP attempts to tie fishway obligations that may apply to the Ellsworth project (if the project is relicensed or removed) based on a claim that the Green Lake project is part of Ellsworth dam’s storage system. DEP asserts that “[t]he project is managed in part as a component of a water storage system for downstream power generation.”³³ As noted above, the Green Lake project is owned by the GLWP and has no relationship to Brookfield. GLWP’s project operations, as referenced by DEP itself, manage not only hydro generation, but are “designed to maintain recreation values, allow water supply for [the FWS Fish Hatchery], protect arctic charr spawning habitat, and maintain sufficient flow in Reeds Brook.”³⁴ GLWP’s project at Green Lake is not a component of Brookfield’s power generation at the downstream Ellsworth Dam.

³¹ See FWS Settlement, section 1.15.

³² See *Students for Fair Admissions, Inc. v. Harvard College*, 600 U.S. 181, 143 S.Ct. 2141, 2176 (2023), quoting *Cummings v. Missouri*, 71 U.S. 277, 325 (1867).

³³ Draft WQC at 4.

³⁴ *Id.*

2. The Fishway Condition Should Not Be Considered Necessary for Biological Integrity

The Fishway Condition is not required to maintain or improve “biological integrity.” In fact, Green Lake is already an ecosystem that is a “balanced, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitats within the region.” The Fishway Condition will adversely impact Green Lakes’ natural habitat which is unique not only in the State of Maine, but in the United States.

The Fishway Condition, imposed without any support or documentation, could introduce invasive species to Green Lake or introduce species that adversely impact the native population of arctic charr and landlocked salmon. Graham Lake is a warm, shallow waterbody. Fish in Graham Lake are warm water species, such as smallmouth and largemouth bass, chain pickerel and white perch.³⁵ In contrast, Green Lake is a Class A cold water, deep (up to 170 feet)³⁶ lake that supports a vibrant cold water fish community which includes arctic charr, landlocked salmon, lake trout (togue), and brook trout, and also other resident species including pumpkinseed sunfish and American eels.³⁷ While some of the fish in Graham Lake are also in Green Lake, the ecosystem in Green Lake is more diverse, complex and vulnerable. As the Native Fish Coalition states, “[i]t is important to note that Green Lake is one of just four native landlocked salmon waters in the state, one of only twelve native Arctic charr waters, and the only

³⁵ License Application, Exhibit E at 5-24.

³⁶ Boaters using depth equipment have recorded depths of approximately 180 feet.

³⁷ License Application, Exhibit E at 5-20.

water where landlocked salmon and Arctic charr occurred naturally in the contiguous United States.”³⁸

If largemouth bass, which exist in the warm and shallow waters of Graham Lake, were to be passed over the Green Lake dam into Green Lake, they could over-compete and wipe out existing fish in Green Lake. As the Maine Department of Inland Fisheries & Wildlife Noted “[f]ish invasions are often overwhelming to native ecosystems – altering the species assemblage, changing the insect community and forage base, and devastating native fish populations.”³⁹ New upstream fish passage facilities, as well as dam removal, risk the introduction of non-native species into a waterbody. In *Unintended consequences and trade-offs of fish passage*⁴⁰ the authors note that issues associated with the effects of upstream passage and introduction of non-native species has not been adequately studied, the authors state that “[t]he extent to which dams and other forms of barriers are being used to protect native biological communities is likely underappreciated. . . .”⁴¹ The authors cite to the need to use electrical barriers in the Chicago shipping canals to prevent Asian carp from reaching and infesting the Great Lakes, due to the ability of Asian carp to travel upstream over fish passage facilities installed at hydroelectric facilities.⁴² Instream barriers are used to restrict upstream travel of invasive sea lamprey as well. There were significant unintended consequences to Lake Superior, Ontario, Canada as the result of the removal of a dam, when invasive sea lamprey were able to access the lake and push out

³⁸ Native Fish Coalition at 2.

³⁹ See “An Undetected Fish Invasion” <https://www.maine.gov/ifw/blogs/mdifw-blog/undetected-fish-invasion> (May 19, 2020).

⁴⁰ McLaughlin, *Unintended consequences and trade-offs of fish passage*, Fish and Fisheries, 2013, https://www.canr.msu.edu/qfc/publications/pdf-publications/2012-publications/Unintended%20consequences%20and%20trade-offs%20of%20fish%20passage_McLaughlin.pdf

⁴¹ *Id.* at 587.

⁴² *Id.*

lake sturgeon and northern brook lamprey, species recommended for special protection in Canada.⁴³ Even the risk of an unintended consequence of the introduction of invasive species must be taken seriously and weighed against the likelihood that salmon and other species would even reach the Green Lake dam via Reeds Brook.⁴⁴

This is why the existing collaborative and balanced approach used by Maine DIFW and Maine DMR to research and monitor over a sufficient number of years to validate preliminary research before prescribing fishways for upstream passage of aquatic invasive species has been confirmed both specifically in the Union River watershed and on the Penobscot River and Piscataquis River watersheds more generally.⁴⁵ Regarding the Penobscot and Piscataquis River, the Maine DMR and MDIFW have confirmed through Legislative Resolve that they will be entering an MOU on more of a Statewide basis to address the need for research as to the risks of introducing aquatic invasive species in upstream waters.⁴⁶

⁴³ *Id.* at 592.

⁴⁴ It is important to note that there is in place a Memorandum of Understanding (“MOU”) entered into between Maine Department of Resources and the Maine Department of Inland Fisheries & Wildlife that obligates those agencies to consult as to fish passage fifteen (15) years after research is completed on the effects of alewife passage on the resident fish species in the Union River headwater lakes (including Phillips Lake, Branch Lake and Green Lake) and addressing effects of introducing Aquatic Invasive Species into the headwater lakes. Fisheries experts are concerned that the introduction of aquatic invasive species could affect resident fish species in the headwaters lakes, and that introduction of Atlantic Salmon up into those lakes could compete with the limited habitat units being used by the resident landlocked salmon in Green Lake. This MOU illustrates that upstream fish passage can have unintended consequences and that those potential consequences need to be understood before taking steps that may prove irreversible. At a minimum, any WQC issued should not mandate fish passage when there is a clear intent to study the issue and potential impacts.

⁴⁵ Indeed, the biological integrity of Green Lake and the resident fish populations mandate that the Department and the fisheries agencies (including Maine DMR and Maine DIFW) first conduct research and address the potential for the introduction of aquatic invasive species to result in long term detrimental effects on the unique resident populations of arctic charr and landlocked salmon in Green Lake. There is a Spring 2022 MOU in place for the Union River headwaters (including Phillips, Branch and Green Lake) that reflects the need for scientific research to be commenced and then follow-on monitoring be done for 15 years before MDIFW and DMR would then consult as to any fishway prescription.

⁴⁶ Starting as LD 1049, the Committee and the agencies reached consensus around collaborative prior study in 2024 Maine Legislative Resolves Chapter 148 (approved and signed by the Governor on March 24, 2024).

The introduction of invasive fish species into Green Lake could adversely affect the quality of water that is used by the Hatchery. Up to 30 cfs per day is withdrawn from the lake and used in the Hatchery's Atlantic salmon rearing program. Invasive species to Green Lake, including alewives, could carry viruses and other impurities that could affect the success of the breeding program. The unlikelihood of the usefulness of upstream passage for salmon coupled with the risk of the introduction of aquatic invasive fish species clearly shows that upstream fish passage is not warranted at this time for the Project. The resident populations of landlocked salmon, Arctic charr and alewives are currently in balance.

3. A Generic Approach to Fish Passage Based on Unproven Assumptions Is Inapplicable

DEP apparently seeks to generically propose similar conditions on all hydroelectric licenses in the State. A generic approach should not be mandated here. As the D.C. Circuit noted in *Maine Lobstermen's Association v. National Marine Fisheries Service*, (D.C. Cir. 2023)⁴⁷ agencies, without evidence cannot assume a worst case scenario when mandating conditions.

In seeking to impose the Fishway Condition, DEP makes a faulty assumption – that the species it seeks to introduce to Green Lake were there prior to installation of the Dam. While fish such as alewives are in the Union River (and trucked by the Ellsworth project), there is no documentation to suggest that they were abundant in Green Lake.

The Green Lake dam was constructed in the early 1900s. Prior to that, in 1860, Green Lake was known as Upper Reed's Pond and Lower Reed's Pond.⁴⁸ Lower Reed's Pond emptied

⁴⁷ *Maine Lobstermen's Association v. National Marine Fisheries Service*, No. 22-5238, 2023 WL 4036598 (D.C. Cir. 2023).

⁴⁸ A map of the area from the 1860, which includes Upper Reed's Pond and Lower Reed's Pond is attached to these Comments as Exhibit A.

into a small stream that emptied into the Union River. There is no indication that alewives or blueback herring were a common migrating species in the two Ponds at that time. There are no alewives in Green Lake today. Introducing them without a firm understanding of what their introduction will do to the delicate balance of the existing ecosystem is wholly inappropriate and reckless.

The potential adverse impacts are not theoretical. In the Great Lakes, studies are underway investigating the death of trout that are eating alewives.⁴⁹ These illnesses are being closely tracked.⁵⁰ Simply put, the risks imposed by the Fishway Condition far outweigh any reward that could come from mandating upstream passage for anadromous fish. As the Native Fish Coalition states, “[i]t is important to note that Green Lake is one of just four native landlocked salmon waters in the state, one of only twelve native Arctic charr waters, and the only water where landlocked salmon and Arctic charr occurred naturally in the contiguous United States.”⁵¹

The biological integrity of Green Lake indicates that it is vibrant and hosts a diverse population of fish and other wildlife. There is no justification that supports the Fishway Condition and the required expenditure of what may be prohibitive construction, operation and maintenance costs on this 500 kW project, and the risk that may result from the introduction of invasive species to this vibrant and diverse resource.

⁴⁹ <https://www.petoskeynews.com/story/sports/2014/04/17/study-examines-deaths-of-trout-that-eat-alewife/45232513/>

⁵⁰ <https://nas.er.usgs.gov/queries/greatlakes/Impacts/ImpactsInfo.aspx?speciesID=490&type=1>

⁵¹ Native Fish Coalition at 2.

B. Imposition of the Fishway Condition is Not Necessary to Protect Long-In-The-Future Uncertainties – FWS Reserves its Prescriptive Authority under FPA Section 18

DEP need not require the Fishway Conditions today based on an uncertainty about what the future may bring to the region. DEP seems focused on the possibility/likelihood of the Ellsworth Dam's removal. This may not be surprising in light of the ongoing litigation underway in state courts. However, the impact of removal of the Ellsworth dam on Green Lake is highly speculative. Removal of the Ellsworth dam structures will result in the elimination of Graham Lake. While we can all speculate on what that part of the Union River watershed will look like, no one knows. In fact, as shown above, there is no evidence that there was active migratory activities into Upper and Lower Reeds Pond prior to 1900 and the construction of the Green Lake dam. A Union River without Graham Lake and the Ellsworth dams may result in no meaningful changes to migratory activities of fish to Reeds Brook and Green Lake.

What we do know is that, if circumstances allow, FWS retains its FPA Section 18 prescription authority throughout the license term. Thus, if there is, indeed, a proven need for fish passage facilities at the Green Lake dam, anyone can petition FWS to institute a proceeding under its prescriptive authority. Thus, DEP is not without recourse to seek, in the future, to obtain upstream fish passage at the Green Lake dam via a petition to the FWS. Ordering it via this mechanism, at this point in time, is beyond agency authority, unwarranted and not justified by the facts.

C. Imposition of the Fishway Condition May Render the Green Lake Project Uneconomic

As shown in these Comments, there is no justification for the Fishway Condition. In fact, the risks outweigh any benefits. Imposition of fish passage facilities for no benefit has a severe

economic cost to GLWP. An obligation to install additional fishway facilities would likely render this 500 kW project uneconomic to operate and force surrender of the license. Surrender of the license could lead to dam removal, which would alter Green Lake and would adversely affect the Green Lake Fish Hatchery, which would harm the salmon population.

To be sure, Commenters have a vested interest in Green Lake. Commenters appreciate the significant efforts of the GLWP in operating the project as an economic enterprise, providing renewable energy to the grid and providing significant recreational benefits not only to lake owners, but tourists and visitors all of whom provide significant economic benefits to the Hancock County region, which relies heavily on tourism. The benefits of lake and related recreational activities on tourism revenues cannot be understated. The project, while only 500 kW, provides well more than that in benefits to the region as a whole and those benefits must not be ignored. GLWP has been a good steward of this resource and Commenters hope that it continues into the future.

III. CONCLUSION

The Water Quality Certificate is generally sound, but the addition at the end of the Certificate of a springing future Fishway condition should be struck. There is for Green Lake specifically and for upstream headwaters on several Maine rivers generally a significant concern requiring that research first be conducted before aquatic invasive species are introduced into headwaters that contain unique and valuable resident fisheries populations. Fisheries experts that understand Green Lake are rightly concerned that the introduction of aquatic invasive species could affect resident fish species in the headwaters lakes, and that introduction of Atlantic Salmon up into those lakes could compete with the limited habitat units being used by

the resident landlocked salmon in Green Lake. The Fishway Condition should not be included in any final WQC issued for the Green Lake hydroelectric project.

Respectfully submitted,

Elizabeth W. Whittle

Elizabeth W. Whittle
On behalf of herself,
Andrew Hamilton and
the Green Lake Association
Board of Directors

Dated: April 12, 2024

Ellsworth 1860

