



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

February 7, 2025

Russell B. Pierce, Jr.
Norman Hanson & DeTroy, LLC
rpierce@nhdlaw.com

David Littell
Bernstein, Shur, Sawyer & Nelson, P.A.
DLittell@bernsteinshur.com
VIA EMAIL

RE: Bucksport, Orland, Surry, Penobscot, and Blue Hill Letters Regarding Department Application #L-31353-36-B-N, Bucksport Mill LLC Petitions for Release from Dam Ownership

Dear Mr. Pierce and Mr. Littell:

This is in response to your letters dated January 31 and February 5, 2025. The Department of Environmental Protection (Department) received three petitions for release from dam ownership (Petitions) from Bucksport Mill LLC (Petitioner) on October 18, 2024. The Petitions were found to be acceptable for processing on November 1, 2024. Bucksport Mill LLC is currently in the consultation process outlined in 38 M.R.S. § 902.

In your respective letters you each request on behalf of the towns an extension of time to continue the consultation process in accordance with § 902(1-A)(A). The Department grants those requests, extending the deadline for the consultation process that is currently in progress by an additional 180 days, to October 13, 2025.

You also request that the Department assist in the consultation process to ensure good faith and due diligence. The Department stated in a letter to the Petitioner dated February 3, 2025, “[t]he Department is required to evaluate the Report [on the consultation process] under § 902(5). In its evaluation, the Department will consider whether the Petitioner provided reasonably appropriate information during the consultations. This includes providing information to the parties under § 902(3) that would allow these entities to meaningfully assess potential assumption of ownership of the dams at issue.” The Department has received multiple communications that consulting parties under § 902(3) have not yet been provided by the Petitioner with requested information necessary to determine whether the parties wish to assume ownership of the dams. The Department expects the Petitioner will share information in its possession necessary for the towns to conduct due diligence as part of the consultation process, and that the Petitioner will describe the information that was shared during the consultation process in its report filed under § 902(4-A). Extending the consultation deadline as outlined in

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AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

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207-941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

§ 902(1-A) will help ensure there is sufficient time for the Petitioner and the consulting entities to engage in a reasonable and good faith consultation process.

Denying entities who do not sign a non-disclosure or confidentiality agreement access to information prevents those entities from meaningfully evaluating possible assumption of dam ownership. Additionally, Maine governmental entities are subject to the Freedom of Access Act (FOAA).¹ Requiring a municipality to engage in a non-disclosure or confidentiality agreement may result in a violation of statutory obligations under FOAA. The Petitioner is not a public entity subject to FOAA and the Department cannot compel the Petitioner to disclose what information it possesses regarding the dams, nor can the Department compel the Petitioner to generate information that it does not already possess. However, the Department agrees that conditioning information-sharing on the signing of a non-disclosure or confidentiality agreement is not consistent with the Petitioner's obligations in the consultation process under § 902.

To ensure that the Department has all the necessary information to determine if the Petitioner has complied with § 901 and § 902, the Department will place the Report filed under § 902(4-A) on our website for a 30-day public comment period after it is submitted and will consider any comments along with those already received during the consultation period.

Please feel free to contact me at (207) 219-9563 or via email at Laura.Pay@maine.gov if you have any questions regarding this project.

Sincerely,

A handwritten signature in cursive script that reads "Laura Paye".

Laura Paye
Hydropower Coordinator
Bureau of Land Resources

CC: Bucksport Mill LLC

¹ 1 M.R.S. § 400 *et seq.*