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Russell B. Pierce, Jr.

November 12, 2024

SENT VIA EMAIL/PDF
kjoyce@bernsteinshur.com

Katherine A. Joyce, Esq.
Bernstein Shur
100 Middle Street
Portland, ME 40104

RE: DEP Consolidated Petition for Release from Dam Ownership relating to Silver Lake, Alamoosook Lake, and Toddy Pond, 38 M.R.S. §§ 901, et seq.

Dear Attorney Joyce:

This office represents the Towns of Orland, Blue Hill, Penobscot, and Surry, in connection with the above referenced matter. The following information request is made on behalf of the municipalities under 38 M.R.S. §§ 901, 902(1) & (3), 908, and generally the provisions of sections 901 through 909, in accordance with the municipalities' respective jurisdictions and responsibilities under these sections of Title 38, relating to the referenced Petition for release of dam ownership.

The towns are in the process of considering the issue of dam ownership, as laid out in 38 M.R.S. §§ 901, et seq. The following information is critical in order for the towns to reasonably conduct their assessments and meet these obligations within the procedures of Title 38. The towns require this information in order to assess issues such as title defining rights and obligations of dam ownership, as well as issues such as the costs and expenses of operation, potential liabilities, capital expenditures or investments, all manner of legal rights or obligations (whether by deed, contract, easement, etc.) relating to ownership and operation of the dams and maintenance of impoundments, and the nature of any and all assets, liabilities, or property interests that Petitioners seek to abandon.

1. Copies of any deeds, and all incorporated covenants and easements, related to the dam and land under the dam, transfers or assumption of title by Bucksport Mill, LLC, title to the dam and any equipment or personal property normally located at the dam site, and flowage rights and access rights related to Alamoosook Lake and Toddy Pond and the Alamoosook Lake dam and Toddy Pond dam. 38 M.R.S. §906(2).
 - a. Please provide prior title searches, and title insurance policies.
 - b. Likewise, for Alamoosook Lake and Toddy Pond and the Alamoosook Lake dam and Toddy Pond dam, provide any deeded water rights, private agreements, and contracts, and, if any, i) water level obligations associated with the dam or any such agreements or deeds, and ii) water intakes on Alamoosook Lake and Toddy Pond, pipelines to and from

- Alamoosook Lake and Toddy Pond, and any other pump stations or infrastructure serving users of Alamoosook Lake and Toddy Pond water or serving Alamoosook Lake and Toddy Pond.
- c. An inventory and complete list of associated assets associated with the Alamoosook Lake and Toddy Pond dams and water management systems owned by Bucksport Mill LLC or any AIM entity in the watershed that pertain to Alamoosook Lake and Toddy Pond.
 - d. Any information regarding the composition of any pipeline and its coating, and all information relating to testing for the presence of hazardous materials including but not limited to PCBs or asbestos. If test results exist, please provide copies.
2. For the Alamoosook Lake and Toddy Pond dams, any and all dam inspection reports, hazard and condition reports, or other regulatory inspection and monitoring information, whether conducted by the Maine Emergency Management Agency or any other state or federal regulatory agency, and including all internal dam inspection reports or memoranda within the custody, possession, or control of any Petitioner or its affiliates (including predecessors or successors-in-interest).
 3. For the Alamoosook Lake and Toddy Pond dams, please provide the Emergency Action Plan for the Alamoosook Lake and Toddy Pond dam and any related facilities.
 4. For the Alamoosook Lake and Toddy Pond dams and any water intakes, piping, and pump stations, or any other such infrastructure or improvements owned by the Petitioner(s), please provide the current and budgeted project and capital improvement plans for 2024 – 2027 and any deferred capital items identified in the prior 10 years.
 5. For the Alamoosook Lake and Toddy Pond dams, please provide a detailed list of forecasted/budgeted preventative maintenance activities for 2024 – 2027 including vendor information, and scope of work, and any deferred maintenance.
 6. For the Alamoosook Lake and Toddy Pond dams, please provide the timing, costs, and scope of work of past or proposed construction repairs and/or improvements to the dams from 2018 – 2024. Please provide the same information for water intakes, piping, and pumps stations, or any other such infrastructure or improvements owned by the Petitioner(s) discharging to or taking water from Alamoosook Lake and Toddy Pond, or with the capacity to discharge or take water.
 7. For the Alamoosook Lake and Toddy Pond dams, please provide the insurance policies and documentation and related costs that any AIM entity or Bucksport Mill is currently using to address risks management of failures, and maintenance costs related to the dams.
 8. For Alamoosook Lake and Toddy Pond, please provide any contracts between any AIM entity or Bucksport Mill LLC and any person or entity relating in any way to ownership or control of Alamoosook Lake and Toddy Pond, related impounded water, or the Alamoosook Lake dam or Toddy Pond dam, or any others receiving water, use of impoundments, or services from Alamoosook Lake and Toddy Pond or the Alamoosook Lake dam or Toddy Pond dam. This request includes, but is not limited to, Maine Water, Bucksport Generation, Whole Oceans, and/or any watershed resident or private entity,

9. Please provide, any and all existing plans, site plans, or as-built construction plans for Alamoosook Lake and Toddy Pond dams and any related pipelines, water intakes, pump stations and related infrastructure serving Alamoosook Lake and Toddy Pond, and fish ladders or any other fish passage facilities, designs, or plans, relating to Alamoosook Lake dam and Toddy Pond dams.
10. Any available engineering reports, evaluations and reports related to the Alamoosook Lake and Toddy Pond dams or water intake, pipelines, pump structures, and related infrastructure serving Alamoosook Lake and Toddy Pond, and fish ladders or any other fish passage facilities, designs, or plans, relating to the Alamoosook Lake dam and Toddy Pond dam.
11. Any stream/lake cross sections, and/or bathymetric surveys upstream and downstream of the dams, hydrologic/hydraulic studies/data, and HEC-RAS or similar hydrologic models.
12. Any environmental reports, biological surveys or assessments, or reports of inspections for water quality, related to the dams or the lakes or existing ecosystems and habitat, including assessments of impacts of water release, dam reconfiguration, removals, or abandonment.
13. For Alamoosook Lake and Toddy Pond and the Alamoosook Lake dam and Toddy Pond dam, any geotechnical borings/soil test data/recommendation reports, or related topographic survey.
14. An accounting, or itemization of all revenues received from 5/21/2019 to the date of petition submission from Bucksport Generation and Whole Oceans related to the requirements pertinent to the water rights easements contained in Exhibits B and C of the deed recorded on 5/21/2019 in book 6951 Page 556 of the Hancock County Registry of Deeds from Bucksport Mill, LLC to Whole Oceans; and, any accounting or itemizations of all revenues from Whole Oceans or any other entity, including but not limited to JARA or Maine Water, and related to Alamoosook Lake and Toddy Pond and the Alamoosook Lake dam and Toddy Pond dam.
15. All budgets, reports, capital plans, and maintenance and repair costs identified as required in Exhibit C of the deed recorded on 5/21/2019 in Book 6951 Page 556 of the Hancock County Registry of Deeds from Bucksport Mill, LLC to Whole Oceans from the date of recording until the date of petition submission; and, any such information from Whole Oceans or any other entity, including but not limited to JARA or Maine Water or any other entity related to Alamoosook Lake and Toddy Pond and the Alamoosook Lake dam and Toddy Pond dam.
16. Copies of any federal, state, and/or local permits and approvals related to the operation of the Alamoosook Lake dam and Toddy Pond dam or Alamoosook Lake and Toddy Pond, no matter whether still in force or how old.
17. Copies of any notice of violation or description of any enforcement actions taken by any federal, state, or local agencies related to the operation of the Alamoosook Lake dam or Toddy Pond dam or Alamoosook Lake or Toddy Pond, no matter whether still in force or how old.

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The Towns request that the Petitioner(s) please provide this information as expeditiously as possible and no later than November 19, 2024 so that the Towns can evaluate the information and have follow up requests and consultation with the Petitioner(s) within the 60 days provided for in 38 M.R.S. §908.

Very truly yours,

/s/ Russell B. Pierce, Jr.

Russell B. Pierce, Jr.

cc: Laura Paye, Maine DEP Dams Program Coordinator