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**VIA EMAIL – [laura.paye@maine.gov](mailto:laura.paye@maine.gov)**

October 30, 2024

Laura Paye  
Hydropower Coordinator  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, ME 04333

Re: Bucksport Mill, LLC Filing Seeking DEP Permission to Abandonment Three High Risk Dams

Dear Ms. Paye:

The Town of Bucksport (the “Town”) provides the comments below on the filing by Bucksport Mill, LLC (“Buckmill”) seeking the Department of Environmental Protection’s (“DEP’s”) permission to abandon three high-risk dams of significant interest to five Maine town’s and located in the Towns of Bucksport and Orland.

**Town of Bucksport’s Interests**

The dams that Buckmill seeks permission to abandon are all high-risk dams, the failure of which would pose significant danger to substantial portions of the Town of Bucksport, and, to our understanding, the Town of Orland. Further, the Silver Lake impoundment provides water to the Maine Water Company and therefore to inhabitants and businesses located in the Town of Bucksport. The loss of this impoundment threatens the security of the Town’s public water supply. The specter of Buckmill abandoning these dams poses issues of public safety including flooding, and the potential loss of drinking water, and water for public sanitation for the Town’s residents and its businesses.

In particular, one of the Town’s largest remaining businesses after the Verso Mill’s closure, is Bucksport Generation, LLC (“Bucksport Generation”), which is a gas-fired generation facility that formerly was part of the Verso Mill and relies upon Silver Lake for its cooling water supply. The Town is very concerned with abandonment of the dam potentially resulting is extremely

detrimental impacts for Bucksport Generation which the Town understands cannot operate without cooling water when called to provide electricity to the New England power grid.

The Town of Bucksport is therefore a party in interest with substantial concerns and potential damages to Town residents and businesses that are likely to result from the Buckmill filing if approved by the DEP. The Town submits five separate and independent considerations, any one of which justifies returning the application as incomplete.

The Right, Title, and Interest Standard in Chapter 2 is Not Sufficient: Petitioner Must Make a Minimal *prima facie* showing the Petitioner can legally Abandon the Dams.

The DEP has already shared with the Town Manager, Susan Lessard, that this is not an application governed by Chapter 2 of the DEP's rules pertaining to processing of applications. The Town agrees.

Specifically, the right, title, and interest ("RTI") requirement in Chapter 2 is not sufficient for processing under the statutory scheme in 38 M.R.S. §901 *et seq.* Because Chapter 2 does not apply, the DEP can and should apply an RTI showing that fits the statutory purpose and does not involve a waste of significant resources and time. To avoid unnecessarily waste hundreds to thousands of hours of DEP, state agency, Town, and impacted local landowner time, the DEP should require a *prima facie* showing the petitioner can legally abandon the dams. If petitioner cannot abandon the dams, the processing of the petition is unnecessary and a significant waste of state, local, impacted business, and private landowner resources.

This is no ordinary application where a showing of right, title, and interest is simply one criterion to show the filer has adequate ownership interest to proceed with a permitting application of an activity requiring an air, water, or land permit on that property. Rather this is an application *to abandon* the subject resources, in this case, three dams presenting a high-risk to multiple Maine towns. The entire purpose of this statutory scheme is to evaluate whether or not an abandonment is proper and meets prescribed statutory and DEP standards.

To abandon here as proposed by Buckmill means to literally leave the resource to fail from inadequate regular maintenance and service. Abandonment as proposed by Buckmill means the power to walk away and allow the resource to become inoperable and fail.

The right to abandon is therefore not simply a right, title, and interest showing under in Chapter 2 in this statutory scheme. Chapter 2 does not apply and this statutory scheme is different: abandonment is the central and prescribed focus of the statutory scheme in 38 M.R.S. §901 *et seq.* Knowing whether the filer has the legal rights to proceed is therefore critical to not wasting hundreds to thousands of hours of DEP staff, municipal staff, and local landowner time should the DEP accept it for processing. The minimal right, title, and interest showing that would be sufficient under Chapter 2 is insufficient here where the *raison d'être* of the statutory scheme is to evaluate whether abandonment should be approved by DEP. Therefore -- for this statutory scheme -- where substantial public interests are at stake, Buckmill, should be required to show, through a simple *prima facie* filing such as a sworn-affidavit that Buckmill has the right to abandon these three high-risk dams without violating its obligations to other members of the

public. The DEP should request *prima facie* evidence as part of an initial filing before the DEP proceeds with processing the application.

The initial October application is devoid of any information for parties or the DEP to review regarding whether the filer has the right to abandon one of more of these dams. The Town and interested parties such as the Maine Water Company and Bucksport Generation can provide no meaningful feedback on the accuracy of information when none is filed. The fact that the initial filing does not provide adequate information to ascertain whether Buckmill can abandon the dam should be sufficient to return the application to the filer.

This lack of showing of a right to abandon the dam is glaring because the Town understands that Buckmill and/or its owners, have legal obligations to maintain and/or operate these dams owed to Maine Water Company, and Bucksport Generation. While these obligations do not necessarily guarantee a specific amount of water, the Town understands that Buckmill cannot walk away from operating and/or maintaining the dams as it proposes to the DEP. Specifically, in the easement deed granted to various parties including Bucksport Generation, the petitioner agrees to operate the Silver Lake water system (§2(a) on page 32), agrees to maintain the entire water system (§7 on pages 36-38), and covenants to use good faith efforts to maintain the water system in compliance with the lake management plans (§ 9 on pages 39-40). The Town does not expect DEP to review the legal detail of the deed, however, even a brief review of the easement deed's Exhibit C, sections 2(a), 7, and 9 shows petitioner cannot abandon these dams given its operational and maintenance obligations.

Needless to say, these are not dams in a remote area that can be abandoned and allowed to slowly fail without negative impact to life, public safety, or the natural environment. These are classified as high-risk dams. These dams perform a public drinking water, public health, and public safety function. The proceeding will be substantial and the petitioner should not be able to require hundreds to thousands of hours of time of state agency staff, the Towns, local landowners, downstream citizens if it cannot make a *prima facie* case in a sworn statement that the petitioner has the rights to abandon.

In this situation, the Town therefore encourages the DEP to require, as a condition of a complete filing, that Buckmill show that it has adequate legal authority to abandon the three dams (or at a minimum the dam on Silver Lake which provides essential drinking water, potable water, water for public sanitation, and water to Town businesses) through a sworn affidavit. In the alternative, the Town encourages the DEP to allow a process for other parties to come forward with a showing of inadequate right to abandon the dams so that hundreds to thousands of hours of state agency and municipal staff time and local landowners are not wasted if Buckmill has no such rights.

The DEP has already determined that Chapter 2 is inapplicable to this application. The DEP can and should apply a different standard here before embarking on an involved process. Therefore, a *prima facie* showing of the right of the petitioner to pursue the primary purpose of the statutory scheme – to abandon – is more than justified where public safety, public health, and millions of dollars of private and business assets are at stake.

The Public Notice is Insufficient for Filing under 38 M.R.S §901(2) and 38 M.R.S §901(3)

As the DEP is now aware, the filer included incorrect and inaccurate information in its second public notice in October and therefore with its filing is not in compliance with the requirements of §901(1)). The Department should not accept such inaccurate information that has had the effect of creating substantial public confusion, and should require the petitioner to correct and reissue the notice and refile the petition.

The possible abandonment of these dams is of substantial public interest. There are at least 754 impacted Town inhabitants and property owners, only some of whom received timely notice and which notice was flawed. Another group of impacted citizens that did not receive notice is downstream landowners who would be impacted by lack of flood control from the dams. Yet a third set of impacted citizens is those who rely upon the water supply from Maine Water Company or for business purposes. These interested parties have not received adequate notice from Buckmill even the statutorily required notice recipients because the public meeting date, time, and place was incorrect. As a result, municipal officials have been inundated with inquiries from concerned citizens in each category with the inaccurate notices. Due to the error in listing an unavailable meeting location in Orland, local officials have been forced to put time and local resources into correcting this incorrect Buckmill information. The public notice requirement is statutory. 38 M.R.S §901(2). By including inaccurate information in the public notice, the filer has failed to comply with 38 M.R.S §901(2).

The filer also has a notice to property owners and a consultation requirement with property owners. 38 M.R.S §§901(3), 902. A filer for abandonment may use a public meeting to comply with this petition filing requirement. 38 M.R.S §901(3). However, here, the filer provides inaccurate and incorrect information in the notice to property owners yielding a notice to property owners that satisfies neither the i) property owner filing requirement in 38 M.R.S §901(3), nor the ii) obligation to consult with property owners in 38 M.R.S §902(1). Here, the inaccurate public meeting information distributed by Buckmill yields an ineffective public filing notice and ineffective public consultation under two separate statutory requirements.

In fact, due to substantial public interest and concern, interested and concerned citizens turned up for a public meeting in Orland that did not exist. While Buckmill sent out notices of a new location two weeks after the initial notices, those notices were not timely received to avoid public confusion.

The Towns cannot be held to the Statutory Time Frame of 60 Days Given the Confusion Created in an Inaccurate Filing.

Local officials' ability to conduct local discussions or a Town meeting while also addressing substantial confusion from dozens of callers and concerned citizens has been compromised. Local officials have lost at least two weeks of the 60-day period for their own action.

Before accepting a filing for process under 38 M.R.S §901 *et seq.* the DEP should require accurate public notice because it is possible that the effect of the filing is going to start a ticking 60 day-time period from the date of filing for the Town to act as under 38 M.R.S. § 908.

Diverting public officials time and resources with inaccurate information and local confusion due to inaccurate filings is counter-productive and should not prejudice municipal rights to act within 60 days. The inaccurate notice of a public meeting has diverted substantial public resources to correcting inaccurate Buckmill information that could have been devoted to organizing decision-making to satisfy the 60-day time frame in the statute.

For this reason alone, the Buckmill filing should be rejected by the DEP and deemed insufficient to start the clock moving on the Towns' obligations to hold a Town meeting within 60 days. Because the Town's rights under the statutory scheme are prejudiced, the Town respectfully requests that DEP return this application as incomplete due to inadequate and inaccurate public notice.

There is No Information with the Petition that enables the three reviewing state agencies to conduct a reasonable review within 60 days.

Information submitted by the filer is utterly insufficient for the Department of Inland Fisheries and Wildlife, the Department Agriculture, Conservation and Forestry and the Maine Emergency Management Agency to make the evaluations required by 38 M.R.S §903 of the statutory criteria. While the statute may not set forth specific submissions for these other state agencies to conduct their review within 60 days, reports and basic inventory information on wildlife, fisheries, public recreational, public use, and public safety ought to be required. These reviewing agencies may have only 60 days to conduct their review. A 60-day review will be challenging even with full information filed regarding wildlife, fisheries, public recreational, public use, and public safety impacts. With no filed evidence, reports, evaluations of these impacts, the agency reviews will be almost impossible in any detail. The DEP certainly has the discretion to administer this statutory scheme as DEP does other statutes, by requiring initial filings of information responsive to the DEP, DIFW, DAFC, and MEMA's review criteria.

The burden of creating and evaluating such review evidence, reports, and evaluation on the wildlife, fisheries, public recreational, public use, and public safety criteria in the statute should not be forced upon the DEP and three separate state agencies at all, much less on the short 60-day time period which is not realistic for development of a record from scratch in order to conduct meaningful and substantial review required to evaluate the statutory criteria.

The DEP should require filed information, reports, evidence, and evaluations addressing each of the three state agency reviews set forth in 38 M.R.S §903 – wildlife, fisheries, public recreational, public use, and public safety – as the DEP does for any and all other filings with the Department. The burden is on the applicant and should not be shifted to the state agencies to produce adequate factual reviews which is impossible as a practical matter for state agencies to comply with under any realistic review time frames.

Bucksport Mill, LLC is Not Authorized To Do Business in Maine and Address Information for Bucksport Mill LLC is Either Out of Date or the Incorrect Entity.

The petition in July was made under the names under the names Bucksport Mill, LLC and AIM Demolition USA, LLC. Now in October under the name Bucksport Mill LLC. It appears both of

the July petition entities Bucksport Mill, LLC and AIM Demolition USA, LLC are not registered to do business in the State of Maine. It also appears that the owners of AIM America, LLC an affiliate of AIM Demolition USA, LLC is not registered or authorized to do business in Maine. It appears that the petitioner is using multiple entities and perhaps transferring assets in a non-transparent manner which raises a significant concern with liabilities being transferred to certain entities with the dams while assets to pay for dam maintenance and operations are being transferred away from the company owning the dams.

In light of the substantial differences in petitioner legal entities between the July petition and the October petition, the Town suggests the DEP should require an initial showing of what damliabilities, assets, and funds to operate and maintain the dams have occurred in the last year between the petitioner entities Bucksport Mill, LLC and AIM Demolition USA, LLC in July and Bucksport Mill LLC in October as well as their other AIM affiliates including AIM Demolition USA, LLC. If the assets that could pay for dam maintenance and operations have been transferred in the last year to hide them in this proceeding, the petitioner should explain that in its initial filing what the costs of maintenance and operations are and where the assets have been transferred that would pay for such dam maintenance and operations. In short, if the petitioner entity is set up to fail with inadequate resources to operate and maintain the dams, the DEP should require the other related AIM entities involved in what appear to be recent transfers to be applicants and properly before the DEP.

Here is more detail for why the Town is concerned:

The prior application filed on July 11, 2024 and returned to the filers was filed by AIM Demolition USA, LLC and Bucksport Mill, LLC, with a listed post office box in Bucksport Maine as “PO Box 1874, Bucksport, ME, 04416”. While this new second application is filed by Buckmill only - perhaps suggesting a transfer of ownership of some of the dams occurred between July and October of 2024 from the prior two petitioner entities. Notably, the prior owner of two of the three dams listed in the July petition, AIM Demolition USA, LLC never was or has been authorized or registered to do business in Maine.

There is a registration with the Secretary of State for a Bucksport Mill LLC (Buckmill as defined above) with a business address corresponding to the former owner ten years ago, Verso Paper. This company Buckmill is registered with the Maine Secretary of State with a business address in Memphis, Tennessee and not Bucksport. Verso sold the Bucksport mill complex after its shutdown in 2014.<sup>1</sup> While Verso has since itself been sold after closing down its second mill in Jay Maine, the former Verso Paper headquarters was located in Memphis, Tennessee prior to these later sales and during the time of the former mill sale to AIM.<sup>2</sup>

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<sup>1</sup> See generally, <https://www.pressherald.com/2014/12/08/verso-intends-to-sell-bucksport-mill-and-power-plant-for-60-million/>.

<sup>2</sup> Again, as noted, Verso Paper has been sold as an entire company. When Verso was operating the Bucksport paper mill, its corporate headquarters were located in Memphis, Tennessee. See, e.g., <https://www.webpackaging.com/en/portals/versopapercorp/assets/11307088/verso-paper-corp-locations/>.

This Maine Secretary of State's registration for Buckmill appears to be old tracing back to when Verso Paper owned the mill before 2014 with a corporate headquarters in Memphis, Tennessee.<sup>3</sup> Therefore, this corporate registration appears to be for an entity based in Memphis. Thus, it is unclear if Bucksport Mill LLC is the same entity registered with the Maine Secretary of State.

Companies must register to do business in Maine with the Maine Secretary of State's office. It is not clear than any of these entities, Buckmill, Bucksport Mill, LLC, nor the AIM owners, are properly registered. Without being properly registered to do business in Maine, this filing with the DEP should not be accepted until the petitioner can explain why it filed under two separate LLC names in July and another LLC name in October. Registering to do business in a state is basic business requirement to provide a business address, an agent of service for legal process, and simple basic corporate identity information. Given two different contrary filings in three months, the petition should be returned to explain or fix these infirmities in compliance with the laws of Maine.

\* \* \*

The Town respectfully suggests that the application should be returned as incomplete for five separate and independent reasons: (1) the filer must show they have the legal ability to actually abandon, otherwise they filer is wasting DEP and local resources and troubling Mainers with something it cannot do, (2) public notice was inaccurate and caused substantial local confusion, (3) the Town should not be held to a 60-day review when their attention has been diverted to addressing the local confusion created by the filers inaccuracies, (4) the filers provide no information whatsoever regarding wildlife, fisheries, public recreational, public use, and public safety impacts for the three reviewing state agencies to consider, (5) it is not clear Buckmill is authorized to do business in the State of Maine. Any of these reasons standing alone is sufficient to find the application in incomplete for processing.

Please do not hesitate to contact us with any additional questions.

Sincerely,



David Littell

cc: Commissioner Melanie Loyzim

Attachments:

- (1) Affidavit of Secretary of State Office Review
- (2) Original October 2024 Inaccurate Public Notice

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<sup>3</sup> As noted in footnote 1, the former Verso Paper owners of the former paper mill were in the past located in Memphis, Tennessee. In 2022, a Swedish company bought the Verso paper and does not maintain a business location in Tennessee as far as the Town is aware. See *generally* [https://en.wikipedia.org/wiki/Verso\\_Corporation](https://en.wikipedia.org/wiki/Verso_Corporation)



**DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**

Bureau of Land Resources 17 State House Station  
Augusta, ME 04333  
Telephone: (207) 287-7688

FOR DEP  
USE  
#LDate  
Received:

**Affidavit of Rachael E. Hayden**

I, Rachael E. Hayden, hereby declare and affirm under oath that the following is true and correct, and is based on my own personal knowledge, except where stated upon information and belief, which I believe to be true:

1. I am over 18 years old and competent to testify to the matters addressed herein.
2. I am a paralegal at Bernstein, Shur, Sawyer & Nelson, P.A. located in Portland, Maine.
3. On Monday, October 28, 2024, I reviewed the Maine Secretary of State's data bases for Maine companies. I searched the Maine Department Secretary of State Bureau of Corporations, Elections and Commissions website for:
  - Bucksport Mill, LLC
  - AIM America, LLC
  - AIM Demolition USA LLC
  - AIM Demolition USA, LLC
4. I did not find any of these entities created as Maine LLCs. I likewise did not find any of these three entities registered to do business in Maine.
5. I did find an entity identified as Bucksport Mill LLC (no comma) registered to do business in Maine. The registration information I found is attached to this affidavit as Exhibit A.

Dated: October 30, 2024

  
Rachael E. Hayden



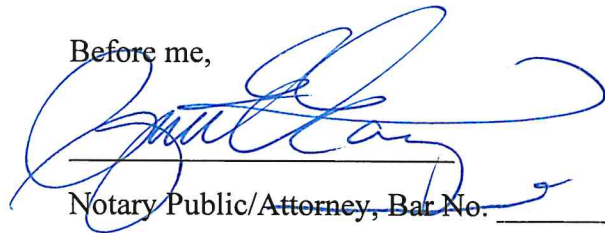
STATE OF MAINE

COUNTY OF CUMBERLAND

October 30, 2024

Personally appeared before me the above-named Rachael E. Hayden, who after being duly sworn, made oath that the foregoing statements made by her are true and based upon her personal knowledge, except where stated upon information and belief, which she believes to be true.

Before me,



Notary Public/Attorney, Bar No. \_\_\_\_\_

**Ruth Ellen Earley**  
Notary Public, State of Maine  
My Commission Expires September 9, 2026

Mandy D. Furbush

**From:** Matthew Blake <mblake@bangordailynews.com>  
**Sent:** Thursday, October 17, 2024 3:58 PM  
**To:** Mandy D. Furbush  
**Cc:** Katherine Joyce  
**Subject:** Legal Notice for Publication  
**Attachments:** Bernsteinshur, BDN, NOI, Oct. 19.jpg

EXTERNAL EMAIL

Hello,

I am reaching out about the legal notice you were requesting to place. This is all set for the BDN Oct. 19th at \$429 and will start online today. Proof is attached.

Thank you

Matt

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| Legal Notices   |
|---|
| <b>NOTICE OF INTENT TO FILE<br/>PETITION FOR RELEASE FROM DAM OWNERSHIP<br/>AND WATER LEVEL MAINTENANCE</b>   |
| Please take notice that Bucksport Mill LLC of 30 Generation Lane, Bucksport, ME 04416 is intending to file a petition with the Maine Department of Environmental Protection for release from dam ownership or water level maintenance under the provisions of Title 38, Maine Revised Statutes Annotated, Sections 901 to 908.    |
| This petition pertains to the dams impounding:  |
| A. Alamoosook Lake, located at 31 Soper Road in the town of Orland in Hancock County;<br>B. Silver Lake, located off Central Street in the town of Bucksport in Hancock County; and<br>C. Toddy Pond, located off Toddy Dam Road (identified as Tax Map 039, Lot 2) in the town of Orland in Hancock County.                      |
| The petition will be filed on or around October 18, 2024 and will be available for public inspection at the DEP's offices in Augusta during normal working hours.   |
| In the event that a new owner is not found for the dam, the DEP will issue an order requiring the dam owner to release the water from the dam.  |
| A dam owner is not prohibited from requesting compensation for the transfer of the dam to a new owner. However, the DEP will not issue a water release order to a dam owner who has refused to transfer the dam to a person willing to assume ownership because that person refused to compensate the dam owner for the property. |
| A public meeting for consulting on this process will be held on October 28, 2024 from 5-630PM at the Orland Community Center, at 21 School House Road, Orland, Maine 04472.   |
| Oct. 19, 2024   |