



June 7, 2022

Kyle Olcott
Hydropower Coordinator
Bureau of Land Resources
Maine Department of Environmental Protection (DEP)
Via Electronic Mail

Re. Draft 401 Certification, PEJEPSCOT HYDROELECTRIC PROJECT #L007867-33-S-N

Dear Mr. Olcott:

On behalf of the Natural Resources Council of Maine (NRCM), I have the following comments on the draft 401 Certificate for the Pejepscot Project (Project).

1. The fish passage standards in this proposal are unclear. This is not a recipe for success. On the Kennebec, the same applicant was given a seven-year interim period to come up with passage standards and implement them. This has not happened because there has been no willingness on the part of agencies to take enforcement action, and the applicant has not proposed standards or passage measures that are adequate. In consultation with the Department of Marine Resources (DMR), DEP should require clear fish passage standards for all species and detail a means of enforcing them immediately. The inadequacy of fish passage at the project has been known for years, and the applicant should not have a vague, multi-year compliance schedule for coming up with and attaining standards. Again, DEP should require the applicant to meet clear standards immediately.
2. The State of Maine was not a part of settlement discussions with the applicant and federal agencies. This is completely unacceptable and underscores the need for DEP to issue this certificate with strict standards that it can enforce so that that Maine's interest in the health of the Androscoggin is not completely ignored.
3. Water quality certifications can be issued with conditions. DEP should issue this certification with a condition that the applicant meet aquatic life standards in the Project impoundment based on macroinvertebrate sampling. NRCM understands that the $\frac{3}{4}$ wetted perimeter guidance can be a proxy for aquatic life criteria attainment, but in this case, using this policy is unnecessary. The applicant should sample the impoundment using rock baskets, and compliance should be determined based on the outcome of this sampling, which should have been done prior to applying for certification.

4. Again, given that 401 certificates can be issued with conditions, DEP should also issue this certificate with the condition that the Project comply with Class B standards for the river segment. The Legislature upgraded this segment in the 2022 legislative session, and the change in classification goes into effect on August 8, 2022. DEP cannot issue a 401 certificate that allows the Project to potentially be in non-attainment for decades two months before the classification changes.

Thank you for the opportunity to comment, and please feel free to contact me with questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Bennett". The signature is written in a cursive style with a large, stylized initial "N".

Nick Bennett
Staff Scientist