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STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

JANET T. MILLS
GOVERNOR

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

January 8, 2019

Senator Brownie Carson
Representative Ralph Tucker
Committee on Environment and Natural Resources
c/o Legislative Information Office
100 State House Station
Augusta, Maine 04333

**Re: Pending applications for water quality certification
2018 annual report**

Dear Senator Carson and Representative Tucker:

Pursuant to 38 M.R.S. § 638, the Land Use Planning Commission (“Commission”) is providing this report to the Committee on Environment and Natural Resources describing all pending applications before the Commission for water quality certification under Section 401 of the federal Clean Water Act for dams located in the State that are subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”).

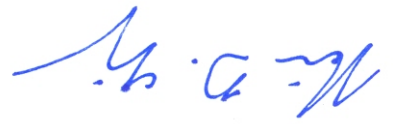
The Commission administers the permit process under the Maine Waterway Development and Conservation Act (“MWDCA”), 38 M.R.S. §§ 630–638, for a hydropower project that is located wholly within the State's unorganized and deorganized areas and that does not use tidal or wave action as a source of electrical or mechanical power. 38 M.R.S. § 634-A(2). Water quality certification is a component of the Commission’s permitting process under the MWDCA. 38 M.R.S. § 635-B and 01-672 C.M.R. 11(6)(B). Water quality certifications associated with FERC licensing and relicensing of hydropower projects that are located wholly within the State's unorganized and deorganized areas, where no permitting under the MWDCA is required, are administered by the Maine Department of Environmental Protection.

The Commission currently has one pending application for a MWDCA permit and water quality certification for a FERC licensed dam. On August 9, 2018, the Commission accepted as complete for processing, an application from Brookfield White Pine Hydro, LLC (“Brookfield”), for project approval under the MWDCA, and water quality certification. Brookfield’s proposal is for the reconstruction of the Middle Dam on Lower Richardson Lake in Township C, Oxford County.



Generally, the time limits for the Commission to process an application for a MWDC permit application is 105 working days. 38 M.R.S. § 635-A. However, the Commission granted requests for a public hearing on the application pursuant to the Administrative Procedure Act, 5 M.R.S. §§ 9051-9064, and that proceeding is underway. Presently, the parties to the proceeding are working collaboratively to resolve as many issues or concerns as possible in advance of the hearing. The public hearing is anticipated in March 2019. A decision on the pending application and water quality certification will be made as expeditiously as possible upon the close of the hearing record, and prior to August 9, 2019.

Respectfully submitted,



Nicholas D. Livesay
Executive Director

cc via e-mail only:

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