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JANET T. MILLS
GOVERNOR

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

AMANDA E. BEAL
COMMISSIONER

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ACTING EXECUTIVE DIRECTOR

January 14, 2022

Senator Stacy Brenner
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 of FERC projects
2021 annual report**

Dear Senator Brenner 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 existing hydropower projects that are located wholly within the State's unorganized and deorganized areas, and for which no MWDCA permit is required because no reconstruction or structural alteration is proposed, are administered by the Maine Department of Environmental Protection¹.

In 2021, the LUPC did not issue any MWDCA permits and associated water quality certifications for FERC licensed dams within its service area, and no applications are currently pending before the Commission for a MWDCA permit and water quality certification for a FERC licensed dam. In addition, the Commission is not aware of any FERC licensed dams

¹ Per Executive Order FY 1996-1997 number 3.

within its service area that will need to submit a MWDCA permit application and request for water quality certification within the next five years.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "SR Beyer".

Stacie R. Beyer, Acting Executive Director
Maine Land Use Planning Commission

cc via e-mail only:

Everett Worcester, Chair, LUPC
Amanda Beal, Commissioner, DACF
Randy Charette, Deputy Commissioner, DACF
Emily Horton, DACF
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