



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

GERALD D. REID
COMMISSIONER

November 18, 2019

RE: LOW IMPACT HYDROPOWER INSTITUTE APPLICATION FOR CERTIFICATION FOR THE AMERICAN TISSUE HYDROELECTRIC PROJECT (FERC No. 2809)

To whom it may concern:

The American Tissue Hydroelectric Project (ATHP, Project) is owned and operated by KEI (Maine) POWER MANAGEMENT (III) LLC (KEI, the applicant) and located on Cobbosseecontee Stream in the town of Gardiner, in Kennebec County, Maine. The Project is located approximately 1 river mile upstream of the confluence of Cobbosseecontee Stream and the Kennebec River. There are several dams on Cobbosseecontee Stream and the Project is the only dam that is used for hydroelectric generation. The ATHP operates as a run of river facility with a minimum flow of 52-cfs in the tailrace and 10-cfs or inflow to the bypassed reach. The Project consists of a stone masonry dam with spillway, east and west abutments, an underground steel penstock, a powerhouse with one generator unit, and a bypass reach that is approximately 345 feet long.

The Department of Environmental Protection (MDEP, the Department) has reviewed its most recent water quality data for surface waters at the ATHP. The American Tissue dam creates an impoundment with a surface area of 5.5 acres at full pond which extends upstream 1,160 feet to the toe of the New Mills Dam. The New Mills Dam is the upstream water control dam which impounds Pleasant Pond. The full impoundment surface elevation is 123.3 feet msl including 1-foot flashboards. The impoundment is relatively shallow and narrow, with a riverine character and a maximum depth of 24 feet. The Cobbosseecontee Stream surface waters associated with the impoundment and downstream of the project dam are Class B waters, the 3rd highest classification. The Department has no evidence to suggest that the continued operation of the Project will negatively impact the designated uses, numeric or narrative criteria of its classification standards (Class B).

The Department's latest Integrated Water Quality and Assessment Reports (305b/303d Reports) (2016) indicate that the waters associated with the ATHP are categorized as 2: Rivers and Streams Attaining Some Designated Uses, 4-A: Rivers and Streams with Impaired Use with an advisory for total phosphorus, and 5-A: Rivers and Stream Impaired by Pollutants with an advisory for benthic macroinvertebrates and periphyton. The 303d report shows that a Watershed Management Plan was established in 2008 and further monitoring in 2010 showed Pleasant Pond's nutrient and trophic state indicators remained high. The Department has determined that impairment of water quality in the stream is likely related to the upstream Pleasant Pond impoundment and is not a result of the operations of the ATHP. In addition to not attaining the designated use of 'habitat for fish and other aquatic life', Cobbosseecontee Stream is not attaining the designated use of fishing, since there is a statewide fish consumption advisory

for all freshwaters due to mercury. The Department has determined that the non-attainment status due to the fish consumption advisory is not a result of the operation of the ATHP.

On November 29, 2018, MDEP issued its decision and order (#L-16416-33-E-N) approving KEI's water quality certification (WQC) application. The federal licensing process is integrated with MDEP's WQC process for review, pursuant to Section 401 of the federal Clean Water Act (CWA) and related state laws and rules if applicable. As discussed in the MDEP WQC issued in 2018, the Maine Department of Marine Resources (MDMR) reported and the Department found that the Cobbossecontee Stream historically supported runs of diadromous fish including striped bass, blueback herring and alewife (known collectively as river herring), rainbow smelt, American shad, Atlantic Salmon and American eel. Migratory access to Cobbossecontee Stream is restricted by the downstream Gardiner Paperboard (GPB) dam, which has not operated since 2000. Five native migratory fish species (blueback herring, alewife, striped bass, American shad and rainbow smelt) are reported to utilize habitat downstream of the GPB dam. Currently, American eel and sea-run alewives occur within the Project area or upstream of the ATHP; alewives are stocked into the upstream Pleasant Pond and Horseshoe Pond by MDMR.

During the WQC analysis, the Department found that KEI has maintained and operated downstream fish passage facilities for alewives and American eel at the Project since 2003. Additionally, Condition 3 outlines Upstream Fish Passage requirements to be initiated at the ATHP by the second migration season (2020) for American eel. Fish passage for other anadromous species must be initiated by the second migration season after upstream passage becomes operational at the downstream GPB dam. By following these Conditions outlined in the 2018 WQC, the Department has determined that KEI, through consultation with resource agencies, has made adequate provisions to accommodate fish passage for anadromous species. Additional results of WQC studies showed that the ATHP impoundment, the Cobbossecontee Stream bypass, as well as the tailrace attain most designated uses and water quality standards for Class B waters. The Department has determined that standards that are not attained are not a result of Project activity. Therefore, the Department supports the Low Impact Hydropower Certification of the ATHP (FERC No. 2809)

Please feel free to contact me at (207) 446-1619 or via email at Christopher.Sferra@maine.gov if you have any questions regarding this project.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris O. Sferra".

Christopher O. Sferra, Project Manager
Bureau of Land Resources
Maine Department of Environmental Protection