

April 18, 2025

Ms. Shannon Ames, Executive Director  
Low Impact Hydropower Institute  
329 Massachusetts Avenue, Suite 2  
Lexington, MA 02420



**Transmitted via e-mail to [comments@lowimpacthydro.org](mailto:comments@lowimpacthydro.org)**

**Subject: Skeleton Project Comments**

Dear Ms. Ames:

On behalf of its six chapters with over 1700 members, Maine Council of Trout Unlimited ("TU") submits these follow-up comments to our original comments submitted on March 26, 2025 regarding the Brookfield White Pine Hydro ("Brookfield") application for Low Impact Hydro Institute (LIHI) Certification for the Skelton Project distributed March 6, 2025.

Attachment A<sup>1</sup> is the letter Brookfield recently sent to those responsible for observations of juvenile American eels at the Hiram Project and posting the results to the Hiram Project FERC Docket (P-2530).<sup>2</sup> Contrary to Brookfield's reports and study data submitted for that project's relicensing in 2022, there are many more juvenile American eels attempting to pass upstream at Hiram. This should bear on the requirements and timing for upstream eel passage under the 2007 Settlement.

One of the arguments TU makes in its Skelton LIHI Application Comments is that:

"Brookfield has clearly failed to act to recognize and support hydropower projects that prioritize environmental, recreational, historical, and cultural resource protection in the Saco River Watershed - only to delay restoration and maximize the value of the resource as an asset in its energy portfolio. If the project is certified, LIHI will not have worked to achieve its goals but only to 'greenwash' the obviously and inherently destructive nature of current Saco River hydro operations by designating them as low impact."

The Brookfield letter demonstrates Brookfield's intent and continuing efforts to delay fish passage throughout the Saco River watershed. Furthermore, the Brookfield letter is contrary to Maine law regarding an important doctrine called "SLAPP" or Strategic Lawsuits Against Public Participation which has both case law and is codified in Maine's Uniform Public Expression Protection Act (UPEPA). Maine adopted an anti-SLAPP statute in 1995 (14 M.R.S. § 556), but that statute was limited to the right to petition. The revised law, 14 M.R.S. §§ 731-742, greatly expands the scope of the anti-SLAPP

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<sup>1</sup> Brookfield letter dated March 31, 2025, no subject or RE.

<sup>2</sup> Saco Salmon Restoration Alliance letter dated March 11, 2025, Subject: Subject: Hiram Project (FERC No. 2530) – Juvenile American eel observations

protection in Maine, aiming to provide a clear framework for the efficient review and dismissal of SLAPPs.

UPEPA broadly applies to a party's "[e]xercise of the right of freedom of speech or of the press, the right to assemble petition or the right of association, guaranteed by the United States Constitution or by the Constitution of Maine, on a matter of public concern."<sup>3</sup> 14 MRSA Section 733(C).

This doctrine and statute protect the public participating in matters of public concern from intimidation lawsuits or claims frequently brought on trespass or nuisance grounds. The Brookfield letter is threatening a trespass claim and enforcement for activities being conducted to determine Brookfield's regulatory compliance. Brookfield has no legal basis to threaten trespass under such circumstances, and any retribution or harassment should be treated as unlawful.

Brookfield's letter serves to underline its active efforts to delay compliance with the spirit and provisions of the 2007 Settlement that is a major basis for its LIHI Certification Application for the Skelton Project. Please add withdrawal of the Brookfield letter with an apology to those addressed in Brookfield's letter to the list of conditions that TU has requested as prerequisites for LIHI Certification for the Skelton Project:

"Should LIHI grant certification based on the information that Brookfield has provided, then TU requests that LIHI provide a reasonable degree of scrutiny be applied to the projects on the lower Saco River by requiring quarterly reports on compliance with the above stated criteria, or until issues regarding fish passage at Cararact, Skelton and Bar Mills have been resolved by relicensing of the Cataract Project, achievement of reasonable fish passage goals at the Skelton Project, and removal of, or establishment of a zone of passage at, the Bar Mills Project."

TU appreciates the opportunity to comment further on this application.

Respectfully,



Stephen G. Heinz  
Maine TU Council FERC Coordinator

Reply to: [heinz@maine.rr.com](mailto:heinz@maine.rr.com)

Attachment – Brookfield Letter dated March 31, 2025 w/attachment

Email copies to: [attorney.general@maine.gov](mailto:attorney.general@maine.gov), [Laura.Paye@maine.gov](mailto:Laura.Paye@maine.gov), [Casey.Clark@maine.gov](mailto:Casey.Clark@maine.gov)

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<sup>3</sup> 14 MRSA Section 733(C).

## Attachment

March 31, 2025

Patricia Barber and Bruce McLaughlin  
21 King Street  
Hiram, ME 04041-3215

**Sent via: United States Postal Service First-Class Mail® and FedEx Express (Tracking #8801 9368 8335)**

Dear Patty and Bruce:

I am writing today on behalf of Brookfield White Pine Hydro, LLC (BWPH), owner and operator of the Hiram Hydroelectric Project in Hiram and Baldwin, Maine. Through recent correspondence with the Saco Salmon Restoration Alliance (SSRA), which was subsequently filed on the docket with the Federal Energy Regulatory Commission, BWPH became aware of activities you both engaged in throughout 2024 which unnecessarily endangered your personal safety.

Critically, the purpose of this letter is to notify you in writing, and thereby remove any possible future uncertainty, that your willful disregard for the fencing and signage intended to keep you safe constituted a trespass on BWPH property and will not be tolerated moving forward.

The Hiram Hydroelectric Project features a combination of security fencing and signage intended to keep the public out of harm's way. These signs advise, among other things, of the dawn to dusk use of the facility, warn of changes in and the dangers of water releases and recirculating currents, and prohibit trespassing on the ledges below the dam.

A comment attributed to Patty Barber of Hiram and submitted as Exhibit A-8 via a March 31, 2022, filing of The Sells Law Firm, LLC on behalf of the Sebago Chapter of Trout Unlimited with the Maine Board of Environmental Protection notes, among other things: "...the industrial infrastructure, with the chain link fences, metal gates ... and warning signs...". These words identify an existing knowledge of this infrastructure and suggest a willful disregard for these security measures during your trespass.

A copy of this comment has been attached to this letter for your reference.

Further, the geotagged photos included in the "Photo Log: Hiram Dam – Eel Observations (2024)" and Table 1 of the "Hiram Dam – Eel Observations (2024)" shared by SSRA's Mark Woodruff document your physical presence in prohibited areas and the specific times when these trespasses occurred. A modified version of this table featuring the addition of both sunset and civil twilight for Hiram, Maine document several instances in which you were present on BWPH property after dusk.

**BROOKFIELD WHITE PINE HYDRO LLC**  
150 Main Street, Lewiston, ME 04240

T +1 207.755.5600 F +1 207.755.5655 [brookfieldrenewableUS.com](http://brookfieldrenewableUS.com)

Date	Survey Start	Survey End	Sunset	Civil Twilight
6/4/2024	2030 hrs	2100 hrs	2021 hrs	2057 hrs
6/6/2024	2100 hrs	2145 hrs	2023 hrs	2058 hrs
6/7/2024	2100 hrs	2140 hrs	2023 hrs	2059 hrs
6/13/2024	2045 hrs	2110 hrs	2027 hrs	2103 hrs
6/14/2024	2100 hrs	2111 hrs	2027 hrs	2103 hrs
6/16/2024	2032 hrs	2040 hrs	2028 hrs	2104 hrs
6/17/2024	2054 hrs	2135 hrs	2028 hrs	2104 hrs
6/22/2024	2028 hrs	2150 hrs	2029 hrs	2106 hrs
6/27/2024	2135 hrs	2210 hrs	2030 hrs	2106 hrs
7/21/2024	2051 hrs	2117 hrs	2018 hrs	2052 hrs
8/4/2024	2053 hrs	2105 hrs	2002 hrs	2034 hrs
9/1/2024	2000 hrs	2040 hrs	1918 hrs	1947 hrs
9/21/2024	1944 hrs	2013 hrs	1841 hrs	1910 hrs

Source: Table 1: Hiram Dam – Eel Observations (2024); Data Services, Astronomical Applications Department,  
United States Naval Observatory for 43°51'00.0"N 70°48'00.0"W.

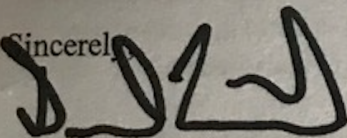
In response to these actions, BWPH is taking steps to enhance its camera coverage of the Hiram Hydroelectric Project.

If you are observed in prohibited areas or about the above-described premises outside of public recreation hours, your actions will constitute a trespass and local law enforcement will be notified. Further, you will be served a Notice of No Trespass barring you from all Brookfield Renewable U.S. recreational facilities in Maine and New Hampshire.

Please know that we do not take these steps lightly. Were our own staff, or contractors hired on our behalf, to engage in the same activities, it would require significant operational modifications to the Project and intense coordination between our remote National System Control Center, local operations staff, and those conducting survey activities to ensure their safety. Importantly, we would **never** allow anyone to access the ledges with water actively passing over the dam's spillway. To do so would offer almost no time to evacuate from the area during an unplanned station trip and unnecessarily jeopardize their lives.

We will contact the SSRA under separate cover to advise them of the need to ensure their members and supporters do not engage in similar activities at the Hiram Hydroelectric Project, other BWPH facilities on the Saco River, and any other Brookfield operated facility in Maine or New Hampshire.

Sincerely,

  
David Heidrich  
Stakeholder Relations Manager

Attachment

Cc: Mark Woodruff, SSRA

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150 Main Street, Lewiston, ME 04240

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## Exhibit A-8

PATRICIA A BARBER, Hiram, ME.

I live in East Hiram and have been fishing, swimming and hiking in and around the Saco River and the Great Falls area for over 20 years. I have seen first hand the influence Brookfield's Hiram Dam has had on the waterways, wildlife, and surrounding recreational areas. The dam has destroyed any semblance of a flowing river. The Great Falls are not falls, but a series of rocks and stagnant pools. The falls are almost completely dewatered most of the summer. I have walked up the entire rock face, dry as a bone, from the sandbar/beach area to just below the concrete dam. I have tried to fish the little pools that remain in the hollowed out rock areas and they are devoid of fish- not even frogs or waterbugs are present. 99.9% of the water of the Saco River flows from the impoundment behind the dam through the turbine blades to the pool by the sandbar.

These falls were essential to the local Native People's populations. They supported renown native brook trout, American Eel, and Atlantic Salmon fisheries. They were a great recreational destination with an overlook, a diner, a Great Falls side park and picnic area, and swimming hole. These have mostly disappeared since the dam was built. Now there are chain link fences, metal gates, sketchy overgrown overlook and 'nature trail' areas, dewatered falls, and the only fish you can catch are bass, an invasive species. The beach and sandbar area below the turbines is still a popular swimming area, but I myself am afraid to swim out too far, fearful that the turbines will suck me under. Some users leave mounds of trash and rotted food, dig out shallow toilet areas in the sand, and camp out overnight and party against permission. The local townfolk and volunteers try to keep the area clean and safe, but it is a losing battle.

It is imperative for the health of the waterway and the lives that depend on it that there be a connection above and below the dam (NOT through the turbine blades as is present now). There needs to be a working, natural fish passage to allow the native run brook trout (there are viable Brookie feeder streams above the dam impoundment), American Eels (the Saco supports healthy eels that are decades old, only to be chewed up by the turbines as they try to navigate back to the Sargasso Sea to reproduce), suckers and other native fish species. The fish passage needs to be in place for when the mandated fish passages in the downstream Saco River dams are opened up to allow the Atlantic Salmon back up the river to lay their eggs. The flow over the falls needs to return to allow the river quality to return, to allow a more natural aquatic ecosystem.

*The recreational areas need to be improved: better parking (the lower parking lot only holds six cars, and has a narrow, bottlenecked entrance), policing and maintenance for safety, bathroom facilities, and a more inviting presence- the industrial infrastructure, with the chain link fences, metal gates, trash and debris, aging powerhouse and warning signs lends an air of neglect, misuse and danger.*

Brookfield and their partners have benefited greatly from taking and using all of the water from Great Falls to build their own profits. They owe a debt and some respect to the river, its wildlife, and the people who love and use the area. It's time Brookfield gave something back, to replace some of what was taken, to bring back life and a natural ecosystem to an ancient and beautiful place.

Patty Barber Hiram Maine