

March 31, 2026

Ms. Debbie-Anne A. Reese, Esq.  
Secretary, Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426



***Via online submission to: <http://www.ferc.gov>***

**Subject: Comments on Spring 2026 Minimum Flow Reduction and Incubation Flow Violations, West Branch Penobscot River Hydroelectric Project (FERC No. P-2572)**

Dear Secretary Reese:

### **Introduction and Background.**

On behalf of its six chapters and more than 1,500 members, Maine Council of Trout Unlimited (“Maine TU”) files these comments on the current minimum flow reduction below Ripogenus Dam and the resulting violations of license-required incubation flows on the West Branch Penobscot River. On March 19, 2026, Brookfield Renewable Partners L.P. (“Brookfield”) notified the Commission that reservoir levels had fallen more than 22 feet below full pond and that minimum flows at the Ripogenus station were being reduced to 800 cubic feet per second (“cfs”) and flows at the Millinocket station to 1,000 cfs. (Accession No. 20260319-5144; Brookfield, Notification of Minimum Flow Reduction, Mar. 19, 2026)

This has happened before, and recently. In the winter and spring of 2021–2022, Brookfield depleted Ripogenus Lake storage through high summer and fall generation and was unable to maintain license-required incubation flows through the subsequent incubation season. The Commission and the resource agencies were fully informed of those violations and their biological consequences. Despite that experience — and the compliance record established before this Commission — Brookfield has repeated the same pattern. Spawning flows were already reduced by agreement to 1,100 cfs in the fall of 2025; the reservoir is now drawn down to the point where Brookfield cannot maintain even that reduced level. The 2026 excursion is a recurrence that should not have been allowed to happen again.

These comments should also be read alongside Maine TU’s January 16, 2026 filing documenting the June 17, 2025 power plant trip event at McKay Station, in which an abrupt generator shutdown caused a subsequent flow reduction that endangered fish in instream habitat, (Accession No. 20260116-5019) to which the Commission directed Brookfield to respond by April 17, 2026. (Accession No. 20260303-3019; FERC, Request to Respond to Trout Unlimited January 16, 2026 Comments, Mar. 3, 2026) Both episodes reflect the same underlying failures: inadequate reservoir management and the absence of independent flow monitoring.

### **Pattern of Self-Inflicted Storage Depletion.**

Drought conditions of the kind experienced in both 2021–2022 and 2025–2026 are becoming more frequent as a consequence of climate change. That trend makes proactive reservoir management more important, not less — and it makes the failure to implement conservation measures more, not less, difficult to justify. Other commenters have noted that meaningful conservation measures were not implemented until March 2026, notwithstanding drought conditions that persisted from summer 2025 onward. (Accession No. 20260326-5065; Camp Owners’ Comments on Low Flow Conditions, Mar. 26, 2026) A significant inflow event of approximately 3,000 cfs was recorded

in late March 2026, and yet the reservoir remains more than 22 feet below full pond — raising serious questions about whether full-pond recovery before the close of the spring refill window is achievable.

Maine TU's analysis of Brookfield's own reported flow data demonstrates the operator controlled or self-inflicted nature of this depletion. During the five months following the establishment of the 1,100 cfs drought minimum in October 2025, Brookfield's data shows 28 days on which flows significantly exceeded that drought minimum — multi-generator flow days during which Brookfield chose to increase generation output above the single-generator drought level. These 28 days alone account for approximately 30,000 cfs-days (roughly 60,600 acre-feet) of discharge above the 1,100 cfs drought minimum. That excess discharge is equivalent to approximately 2 to 3 feet of lake level — or roughly one-third of the total pool depletion experienced over the winter. Had Brookfield held releases to the 1,100 cfs drought minimum throughout, its own data indicates that the minimum flow could have been maintained through May 2026 or beyond, even without additional precipitation. The lake dropped only 10 feet from October through March; without those 28 multi-generator days, the decline would have been approximately 7 to 8 feet, and the current incubation flow crisis would not have occurred. (Maine TU analysis of GLHA flow and impoundment data attached to Accession No. 20260319-5144)

Critically, no ISO New England energy emergency was declared at any point during the winter of 2025–2026. The last such emergency alert was issued on June 24, 2025. Under federal law, an ISO New England energy emergency declaration is the only circumstance that can supersede FERC's authority and the environmental requirements and conditions of the project licenses. Absent such a declaration, all multi-generator flow events during the drought period were the sole operational decision of Brookfield — decisions made, by all indications, to take advantage of higher energy pricing during cold weather periods. They were not compelled by grid reliability needs, and they cannot be characterized as beyond Brookfield's control.

This situation also reveals a structural flaw in the current drought management plan. The plan establishes a minimum flow floor during drought conditions but does not cap flows at that floor. Article 402 of the existing license does provide that minimum flows may not be reduced below the floor without either an emergency beyond the licensee's control or mutual agreement with USFWS and MDEP — but it imposes no corresponding constraint on generation in excess of the drought minimum. The drought protocol therefore operates as a one-way ratchet: Brookfield cannot go below the floor without agency concurrence, but it is free to run as far above it as market conditions warrant, depleting storage at will without prior notice to or concurrence from FERC or the resource agencies. Maine TU respectfully submits that this asymmetry must be corrected in any revised drought management plan.

Maine TU documented a similar pattern in its May 2022 compliance filing. During the summer and fall of 2021, Brookfield operated multiple generators concurrently despite declining lake levels, depleting Ripogenus Lake storage to the point where license-required incubation flows could not be maintained through the subsequent winter and spring. (Maine TU Council, Compliance Status Filing re: Incubation Flow Compliance, P-2572, May 12, 2022) Brookfield characterized the resulting shortfall as “beyond the licensee's control” due to low natural inflow. Maine TU rebutted that contention in a subsequent reply, demonstrating that Brookfield's own generation decisions in the preceding months had consumed the storage buffer that would otherwise have permitted compliance. (Accession No. 20220624-5061; Maine TU Council, Reply to Brookfield Response, May 2022)

The Commission should apply the same standard here. A storage shortfall that results from discretionary generation decisions by the licensee rather than from natural hydrology is not “beyond the licensee's control.” Allowing Brookfield to invoke low-inflow conditions as a shield when those conditions were in part created by its own upstream operational choices would render the incubation flow requirements of the license unenforceable in practice, practically meaningless, and plainly harmful to landowners and users of the Project Area.

## **Biological Consequences of the Current Excursion.**

### ***A. Incubation Flow Violations and Redd Dewatering.***

Landlocked Atlantic salmon placed spawning redds in West Branch Penobscot spawning habitat during October and November 2025. Those redds are now in late-stage incubation — the phase during which eggs are most physiologically vulnerable and most sensitive to disruption of intragravel flow, temperature, and dissolved oxygen supply. Sustained operation below the license-required incubation flow minimum during this window threatens not only the current year class but the multi-year population trajectory of the West Branch fishery.

The scientific literature is unambiguous on the consequences of redd dewatering. Casas-Mulet et al. (2015), studying Atlantic salmon eggs under hydropeaking and dewatering conditions in natural redds, found that “[s]urvival in the ramping zone was significantly lower (~78%) compared to the permanently wetted zone (>99%).” (Casas-Mulet, R. et al., “The Effect of Hydropeaking on Salmonid Egg Survival in Natural Redds,” *River Research and Applications*, Vol. 31: 433–446 (2015), p. 441; peer-reviewed; published in Wiley’s *River Research and Applications*, the leading international journal of applied river science; copy on file with Maine TU) That finding — derived from field measurements of natural redds under controlled flow reduction — corresponds to more than a twenty-fold increase in egg mortality in areas subject to even intermittent dewatering. Where dewatering is sustained rather than cyclical, as occurs during extended minimum flow reductions, losses approach totality. The incubation period for West Branch salmon at prevailing water temperatures extends through March and into April. Brookfield’s announced reductions will span that entire remaining window.

### ***B. Smelt Spawn and the Forage Chain.***

The effects of the current excursion extend beyond direct redd mortality. Rainbow smelt (*Osmerus mordax*) are the principal forage species for landlocked Atlantic salmon in the West Branch and Chesuncook Lake system. (Maine Department of Inland Fisheries and Wildlife, Landlocked Salmon Management Plan) Smelt spawn in early spring in the same stream reaches below Ripogenus Dam that are now subject to Brookfield’s reduced flows. Flow reductions that impair smelt spawning habitat, reduce larval smelt survival, or displace smelt from optimal spawning reaches will propagate through the forage base, affecting salmon growth rates, condition, and size quality in subsequent seasons.

Maine TU noted in its January 2026 filing that reduced smelt abundance and drift from the lake system is a likely contributing factor to documented declines in salmon size quality and abundance in the river below Ripogenus Dam. (Accession No. 20260116-5019, pp. 4–5) The same 2021–2022 storage depletion episode was followed by measurable declines in salmon size quality and angler catch rates consistent with impaired smelt production and reduced forage availability. (Accession No. 20260127-5253; Angler Survey, Jan. 27, 2026) The Commission should not evaluate smelt spawn impacts in isolation. Degradation of the forage base is a chronic, compounding harm that accumulates across seasons, originating in the same reservoir mismanagement that produces direct incubation flow violations.

### **The June 17, 2025 Trip Event and the Need for Independent Monitoring.**

Maine TU’s January 16, 2026 filing documented the June 17, 2025 power plant trip event at McKay Station, in which an abrupt generator shutdown caused a subsequent flow reduction below Ripogenus Dam. The absence of a USGS stream gage at the Telos Bridge location prevented precise reconstruction of the event, including the duration and magnitude of the post-trip flow reduction and any associated biological impacts on fish stranded in instream habitat. (Accession No. 20260116-5019) Maine TU requested that the Commission direct installation of a USGS gage at Telos Bridge, require a deep-gate maintenance release of not less than 400 cfs to prevent complete

flow shutoffs during future power plant trips, and restore a resident dam keeper at Ripogenus Dam to provide on-site operational oversight and real-time response capability. Those requests remain pending.

The current spring 2026 excursion reinforces the urgency of that request. There is currently no independent, real-time, publicly available flow record for the reach below Ripogenus Dam where the effects of flow changes have the greatest effects. The Commission is dependent on Brookfield's own self-reported data to assess compliance with incubation flow requirements during a period when Brookfield has already acknowledged it is not meeting those requirements. Effective Commission oversight demands more than licensee-generated data, particularly during a declared flow excursion. Maine TU renews its requests for a USGS gage at Telos Bridge and a minimum deep-gate release of 400 cfs, and that Brookfield restore a resident dam keeper at Ripogenus Dam — all as immediate conditions of continued license compliance oversight. (Accession No. 20260303-3019)

### **Requested Next Steps.**

Maine TU requests that the Commission act on two time horizons — first to address the immediate compliance failures under the existing license, and then to require a comprehensive solution in the pending relicensing proceeding.

### **Near-Term Actions — Existing License**

The West Branch relicensing is already behind schedule and may slip further. As long as the project continues to operate under the existing license, the conditions that produced this excursion — a drought plan that imposes a minimum but no ceiling, no independent flow monitoring at Telos Bridge, and no resident oversight at the dam — will remain in place unless the Commission acts to correct them now. The Commission should not defer all relief to a relicensing proceeding of uncertain duration when the problems are demonstrable and the remedies are available under the existing license. Maine TU therefore requests that the Commission:

1. Direct Brookfield to supplement the flow and impoundment data provided in its March 19, 2026 filing with a comprehensive written explanation of the reservoir management decisions made from summer 2025 through the date of this filing — specifically including the basis for each multi-generator flow event during the drought period and any internal directives or market considerations governing those decisions — so that the Commission can assess whether the storage depletion was within Brookfield's control;
2. Determine, consistent with Maine TU's 2022 compliance filings and the quantitative analysis presented herein, whether the current storage shortfall is attributable to discretionary generation decisions rather than natural hydrological conditions, and treat any license flow violations during the incubation period accordingly;
3. Require Brookfield, in its forthcoming response to Maine TU's January 16, 2026 filing, to include an assessment of the biological impacts of the current incubation flow excursion on salmon redds and smelt spawning habitat in the West Branch below Ripogenus Dam;
4. Direct Brookfield, in consultation with FERC and the resource agencies, to revise the current drought management plan to establish a maximum allowable flow ceiling — not merely a minimum — during declared drought periods, so that Brookfield cannot unilaterally increase flows above the drought minimum to capture premium energy pricing without prior concurrence from FERC and the relevant resource agencies; and
5. Direct installation of a USGS-standard flow/temperature gage at the Telos Bridge reach below Ripogenus Dam, require Brookfield to maintain a deep-gate release capability of not less than 400 cfs to prevent complete

flow shutoffs during future power plant trips, and restore a resident dam keeper at Ripogenus Dam to provide on-site operational oversight and real-time response capability.

**Longer-Term Action — New License**

Whatever near-term measures the Commission orders, the relicensing proceeding is the appropriate vehicle for a durable, comprehensive solution. The current excursion demonstrates that the existing license’s drought management framework is structurally inadequate — and that Brookfield’s Final License Application cannot be allowed to perpetuate that inadequacy under a new license. Maine TU therefore also requests that the Commission:

6. Direct Brookfield, in the context of the pending relicensing proceeding, to replace the placeholder “low inflow protocol to be developed” in its Final License Application with a fully specified, enforceable drought management plan as a condition of the new license. The current excursion demonstrates that a vague commitment to “operational flexibility” and informal agency consultation is inadequate to protect licensed resources during drought conditions that are becoming more frequent and severe as a consequence of climate change. The new plan must, at a minimum: (a) establish objective, measurable triggers — based on reservoir elevation and projected inflow — at which mandatory conservation measures take effect; (b) set a maximum flow ceiling during declared drought periods so that Brookfield cannot exceed the drought minimum to capture premium energy prices without prior FERC and resource agency concurrence; and (c) incorporate climate change projections into the hydrological baseline used to define drought thresholds, so that the new license reflects the hydrological reality under which it will actually operate.

Maine TU respectfully submits that both phases of this relief are necessary. The near-term actions address the immediate gap between what the existing license requires and how the project is currently being operated; the relicensing provides the opportunity to close that gap permanently. With the West Branch continuing to operate under an increasingly outdated license, the Commission’s oversight role has never been more important.

Very respectfully,



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