

September 21, 2026

Dear Legal Defense Fund Donor,

Thank you again for your support of the Maine TU Council Legal Defense Fund. Your contributions are what make our work on the West Branch possible.

A special thank you to those of you who filed comments with FERC in August supporting the Coalition's Final License Application Comments my last email to you included. Eighty-seven individuals filed with FERC in support, mostly from Maine. They made a difference.

THE JULY 27 FISH KILL

On July 27, a broken cross-arm on the McKay Station transmission line tripped the station offline. Flows on the West Branch fell from about 2,400 cfs to about 450 cfs for more than two hours. Maine TU's preliminary estimate, based on dead fish recovered at Little A Rapids, is that about 3,860 juvenile landlocked salmon were killed, and possibly as many as 7,700, along with brook trout parr and other species. The same failure started a forest fire under the line, the second in thirteen months. It was the third such event in four years. Brookfield conducted no field survey. There has been extensive media coverage of the event, see:

- <https://www.bangordailynews.com/2026/07/30/outdoors/outdoors-environment/thousands-of-fish-may-have-died-in-penobscot-river-dam-shutdown/>
- <https://www.bangordailynews.com/2026/08/17/mainefocus/mainefocus-environment/ripogenus-dam-shutdown-impacts-joam40zk0w/>
- <https://www.wabi.tv/2026/07/31/maine-dep-investigating-fish-kill-west-branch-penobscot-river/>

FERC COMPLIANCE ACTS

On August 27, FERC's compliance staff issued an Additional Information Request to Brookfield, citing Maine TU's comments throughout. Brookfield has 60 days, until about October 26, to:

- describe the environmental effects and number of fish killed, and say whether it agrees with TU's estimate;
- provide an itemized, dated accounting of all transmission-line inspection and maintenance work since 2016;
- turn over the raw flow data behind its outage graph and explain how flows fell below the 400 cfs outage minimum;
- respond to TU's request for a USGS flow/temperature gage at Telos Bridge; and
- propose how it will address these fish kills until a new license is issued.

That last item is the most important. FERC found that the outage flow required by the current license does not protect fish from stranding and mortality.

THE STATE AGENCIES WEIGH IN

Maine DEP filed comments on August 28 finding that the McKay Station outages violate state water quality standards. DEP asked FERC for interim measures while relicensing is pending, including restoring minimum flow within 24 hours of an outage instead of 72, a USGS gage at Telos Bridge, and accelerated transmission-line maintenance. It also asked that the new license require a permanent fix, such as a synchronized bypass valve or a permanent dam keeper at Ripogenus

Dam. Brookfield filed its Water Quality Certification applications on August 27; DEP accepted them on September 8 and must act by August 27, 2027.

MDIFW's August 28 comments support several of the Coalition's positions: a 500 cfs year-round minimum flow below Stone Dam, a limit of 25 percent flow change per hour to reduce stranding below Ripogenus dam, a USGS gage near Telos Bridge, drawdown limits on the Ripogenus-Chesuncook-Caribou Lake, and an \$8.3 million West Branch fishery habitat enhancement fund. MDIFW has also told us it will soon file further information with FERC addressing the fish kills of 2023, 2025 and 2026, including remediation figures.

FERC's new project coordinator has indicated that, given the complexity of these projects, FERC expects to prepare an Environmental Impact Statement rather than the lesser Environmental Assessment. That is another of the Coalition's requests.

WHAT COMES NEXT

- By the end of September, we expect MDIFW's filing on the 2023, 2025 and 2026 fish kills.
- The current licenses expire September 30. The projects will then operate under annual licenses until FERC issues new ones.
- Brookfield's reply to the comments on its license application is due October 12, and its answers to FERC's information request about October 26.
- The Coalition will file its Water Quality Certification Application Comments in early December, Ripogenus first, then Penobscot Mills.
- Maine DEP must act on the certification applications by August 27, 2027.

For those of you who fish the river: Rip is expected to be offline for about three weeks beginning Monday, September 21, with all flows going through Ripogenus Gorge.

WHY THE FUND MATTERS

Brookfield's record elsewhere in Maine shows what we should expect. It withdrew its certification applications for the four lower Kennebec dams and is selling them, citing an increasingly complex and uncertain regulatory landscape. At Ellsworth, where DEP has now denied Water Quality Certification twice, Brookfield carried the first denial to Maine's highest court and appealed the second to Superior Court in July. At Lewiston Falls, DEP granted certification with conditions, and Brookfield sued in July to strike five of them.

We like where we stand on the West Branch. But if DEP and FERC give us what we are asking for, we should expect Brookfield to appeal and litigate. The Legal Defense Fund is what allows Maine TU to be ready when that happens, with deadlines that are short and unforgiving.

Additional information including links to specific documents is on the Maine TU Council website: <https://tumaine.org/>

Thank you again for your continuing commitment to Maine's rivers and fisheries.

Sincerely,

Steve Heinz
Maine TU Council FERC Coordinator
207-781-4762 (voice/fax only)