FERC Committee Report - Steve Heinz November 19, 2026

Outreach:

Community Event. Maine Rivers' Landis Hudson led the November 17 community event on the problems with implementing American eel passage. More than 50 people participated. The upcoming March event will cover community engagement.

Greater Boston TU Chapter. Steve will help staff the Greater Boston TU Chapter booth at The Fly Fishing Show in Marlborough, Massachusetts, on Saturday, January 16, 2027.

West Branch Stakeholders Teleconference. On October 14, Maine TU hosted a Zoom briefing for Coalition members and other West Branch stakeholders. Steve, Neal Hagstrom, Bill Houston, Mark Zakutansky and Scott Sells covered the July 27 fish kill, FERC's and MDEP's responses, Brookfield's October 13 reply to the agencies, the Water Use Plan, and the plan for WQC comments due November 13. Signatories to the Coalition FLA Comments were asked to return signed declarations of standing to Steve by October 30 so they can be filed with the WQC comments. The declarations were filed with the WQC comments on November 13.

Media. The committee is pursuing a number of avenues to increase awareness of Brookfield's practices among its investors, keep the relicensings in local news coverage, and put the relicensings on TU's radar nationally. Neither the New York Times nor Boston Globe accepted West Branch op-eds. TROUT magazine will run the full-length West Branch article in its spring issue. Local news coverage continues. Maine TU's November 18 FERC filing was sent to local media.

Speaking Engagements. Steve will be the main speaker at a West Branch dinner and talk organized by local members of the Anglers' Club of New York, at the Portland Country Club in Falmouth in January 2027 (date to be set). Northeast TU Chapter has invited Steve to speak at its April 13, 2027 meeting in Ipswich, Massachusetts.

Aziscohos Project. The Memorandum of Agreement that needed to exist outside the license terms and conditions was released for final signatures today by Brookfield. Signatories will be Androscoggin Reservoir Company (Brookfield), RLHT, TU, American Whitewater, Appalachian Mountain Club, American Rivers, and the Aziscohos/Aziscoos Lake Campers Association. The MOA is complex and includes lake level targets, minimum flows, and a stipulation that oxygen will be added to outflows using methods that do not increase water temperature. The MOA remains confidential until final signatures.

Ripogenus and Penobscot Mills Projects. The current licenses expired September 30, and both projects now operate under annual licenses that run through September 30, 2027 under the terms of the prior licenses, and renew automatically each year until new licenses are issued. On October 26, Great Lakes Hydro America answered FERC's August 27 information request. It dismissed TU's mortality estimate as an extrapolation from a single site and instead endorsed an MDIFW estimate of 1,134 young-of-year salmon killed; MDIFW had not yet filed its method. GLHA reported spending about $6.2 million on the transmission line since 2016, $2.4 million of it this year, and dropped the backup control system it promised in 2024. It again agreed to a USGS flow gage, but only under the new license, and offered no new interim protection beyond studying remote gate operation at Ripogenus Dam. GLHA's data show flows fell to 157 cfs and stayed below the required 400 cfs outage flow for 14 minutes. On October 7, FERC announced it will prepare a full Environmental Impact Statement for both projects; additional scoping comments were due November 6, with a draft EIS planned for July 2027 and the final EIS for March 31, 2028. On October 13, Great Lakes Hydro America answered the resource agencies' comments. It accepted MDEP's interim outage measures, pending FERC approval, but offered only further consultation with MDIFW on a permanent fix; held at 100 cfs from July through September in Ripogenus Gorge and 200 cfs below Stone Dam, declining MDIFW's 500 cfs and a cold-water

release from the deep gate; and declined MDIFW's lake-level targets and fisheries fund. It will respond to the Coalition and other stakeholders "at a later date." Coalition members briefly reviewed these developments at the October 14 stakeholder teleconference (see Outreach). On November 5, MDIFW filed its estimate that 1,134 landlocked salmon and 142 brook trout were killed on July 27, a figure it calls conservative. It recommended $40,000 in mitigation for each of the three stranding events since 2023, $120,000 in all, paid into an MDIFW fisheries fund; a two-year deadline for GLHA to finish its transmission-line upgrades; and a USGS gage near Telos Bridge by September 2028, without waiting for the new license. On November 6, as part of its reply to FERC's EIS notice, GLHA filed its responses to the Coalition's August 25 FLA comments, 24 days late. GLHA states that it did not respond to each comment, says it "largely disagrees" with them, and again ruled out automating a gate at Ripogenus Dam. On November 13, Maine TU filed the Coalition's comments on both WQC applications with MDEP, on behalf of 19 organizations and businesses and with declarations of standing; they were prepared with attorney Scott Sells. The Coalition asks MDEP to certify the projects only with conditions, including summer lake-level targets for the Ripogenus impoundment; a 1,700 cfs minimum flow below McKay Station, with a 1,400 cfs winter floor; a year-round cold-water flow of 200–400 cfs into Ripogenus Gorge from the deep gates; 500–700 cfs below Stone Dam; a ramping limit of 25% per hour; an automated 1,700 cfs outage release, with a dam keeper until it works; eel passage; and MDIFW's fisheries fund. On November 18, Maine TU filed opposition comments and a request for an interim order with FERC (Accession No. 20261118-5062). They answer GLHA's October 13, October 26 and November 6 filings and ask FERC to order now the interim measures GLHA says it is prepared to implement.

Medway Project. Black Bear Hydro (Brookfield) filed its Draft License Application for the Medway Project on the West Branch on October 30. Comments are due January 28, 2027. The current license expires March 31, 2029.

West Enfield Project. On September 18, Bangor-Pacific Hydro (Brookfield) filed reply comments that largely accept the NMFS and DOI fishway prescriptions but object to numeric fish passage performance standards, calling MDMR's population-model-based standards unrealistic. On October 30, Brookfield filed a consultant's review of MDMR's population model. It argues the model is too sensitive to habitat assumptions to set enforceable passage standards, and that FERC should not consider MDMR's recommended performance standards in its environmental assessment.

Lower Kennebec Dams. In September 2025, The Nature Conservancy (TNC) agreed to buy the Lockwood, Hydro-Kennebec, Shawmut and Weston dams from Brookfield, and formed the Kennebec River Restoration Trust to take ownership of them and plan their eventual removal to reopen the river to sea-run fish. The sale awaits FERC approval of the license transfers; FERC's July 20, 2026 order requires a decommissioning plan and proof of financial and technical capacity by July 20, 2028. The Trust has formed six working groups and a 16-member advisory council. Its Municipal Revenue Working Group, which includes Skowhegan's town manager, will meet monthly for two years to study the more than $500,000 a year in property taxes Fairfield, Skowhegan, Waterville and Winslow would lose and a possible replacement revenue fund. Sappi told The Maine Monitor its Somerset Mill "could not operate if the Shawmut Dam were removed"; TNC said no plan to decommission Shawmut will advance until a solution is found for the mill's water supply.

Brunswick Project. Over the October 10–11 weekend, after Sabattus Pond was drawn down upstream, thousands of juvenile river herring, mostly young-of-the-year alewives, were killed in the turbines and washed up along about half a mile below the dam. State Representative Dan Ankeles' (D-Brunswick) Facebook post re: the Brunswick project fish kill: "I am following closely the story of the latest fish kill at the Brookfield hydroelectric dam by Fort Andros. So far it seems like further confirmation that the fishway does not work just as Free the Androscoggin has asserted. I support their efforts at the federal level to include major fish passage improvements as a condition of relicensing. Additionally, I do plan to submit legislation specific to this site regarding the state level clean water certification that is also required in the licensing process. Hydro cannot

be considered 'clean, renewable energy' if the people who operate the power plants can't fulfill their basic promises around fish passage. The reason this matters so much is because there is a major difference in overall environmental quality when fish passage is done correctly. You also of course get a huge boost in the strength of the food chain that we all benefit from, either directly or through an increase in bait fish. It would be so much easier for everyone involved if Brookfield would just agree to listen to advocates and use its vast resources to truly accommodate fish passage rather than fighting so hard to do the bare minimum. If you are going to extract a profit from our river, then you need to take care of it. This is an entirely reasonable ask of a major energy firm like Brookfield." Free the Andro, of which the Merrymeeting Bay Chapter is a founding member, publicized the kill, which Brookfield had not reported. FERC gave Brookfield 30 days to explain. In its November 6 response, Brookfield blamed a "highly unusual" combination of drought, low flow (about 1,430 cfs) and the Sabattus Pond drawdown releasing large numbers of young herring at once, and reported about 1,500 dead fish. Using Free the Andro's estimate of about 3,000, it put the kill at 0.035% of the 8.52 million juveniles MDMR expected. Its response shows it ran one or two small units during the day on October 10, after learning on October 9 that the drawdown had begun, and shut down only when mortalities rose that afternoon. FOMB (November 10) and Free the Andro (FTA, November 15) answered that the same conditions caused a 2016 kill and were entirely predictable. FTA added that its 3,000 estimate covered only about 100 yards of a half-mile of shoreline, so the true toll is far higher. FOMB applied a 4% turbine mortality rate from published studies and estimated about 340,000 Sabattus juveniles killed or injured. FTA asks FERC to reject the 0.035% figure and to require protective measures now, rather than wait for the new license. Steve Brooke and Steve Heinz spoke to Free the Andro about its objectives at its November 6 meeting.

Androscoggin Water Quality Lawsuit. Friends of Merrymeeting Bay has sued EPA and the State in federal court in Maine, seeking reclassification of the Androscoggin from Gulf Island Pond Dam to Worumbo Dam from Class C to Class B to match the river's actual, improved water quality. On November 12, Brookfield, the Maine Forest Products Council and ND Paper asked for leave to file a joint amicus brief supporting the government's motions to dismiss; EPA and the State consent. TU is not a party. However, the Merrymeeting Bay Chapter co-funded FOMB's 2025 helicopter sampling, and Maine TU testified to the Legislature in February 2026 for upgrading the same reach to Class B. The amicus brief and the government's replies are due December 11.

Legal Defense Fund. Brookfield's latest West Branch filings give no indication that it is willing to settle. Thank-you letters went out November 16 for recent donations, including $1,000 from the Downeast Chapter. Active fundraising will resume in December.

Mousam Project. KLPD missed the July 7 WQC deadline and, six days later, requested another extension — to January 4, 2027 — citing ongoing talks with MDEP and MDMR on a framework tying fish-passage improvements to license surrender, contingent on grant funding; FERC granted it. Underlying the delay is a real fight: KLPD's surrender plan would leave the three dams in place after removing the electrical equipment, and FERC has called that the preferred alternative — but MDEP maintains only full removal restoring a free-flowing river meets state water-quality and fish-passage standards. Cost estimates (last updated in 2016) put removal at $2.3 million versus up to $11.7 million to fix the dams and add fish passage; KLPD says real costs today are higher, with ratepayers footing the bill either way. On November 3, Kennebunk voters approved raising KLPD's debt limit from $6 million to $30 million, 5,216 to 2,926. The new borrowing room is aimed at replacing aging substations, but it could also help fund dam removal and river restoration. FMI: https://klpd.org/general-manager

Worumbo Project. Brown Bear (Eagle Creek), NMFS and USFWS reached an Agreement-in-Principle on fish passage, which Brown Bear filed with FERC on July 27. Both prescriptions were filed on schedule: NMFS's (Aug. 26) and DOI/USFWS's (Aug. 27), alongside MDIFW's and MDMR's interventions and Brown Bear's WQC application to MDEP (accepted Sept. 8). Most NMFS terms were proposed by Brown Bear itself, formalizing

numeric targets (95% upstream salmon passage within 48 hours; 95% downstream for salmon/herring, 85% for adult shad) backed by a real obligation to diagnose and fix shortfalls — though not an unconditional one: if good-faith fixes still fall short, Brown Bear can get NMFS to concur a target isn't achievable, which caps rather than escalates the requirement. The upstream fish lift, out of service since its gearbox failed August 28, returned to service October 14. On October 12, Maine TU filed a protest in its reply comments, maintaining the protest it lodged with its March motion to intervene. Maine TU objects to treating passage for American shad, river herring and American eel as adaptive-management "targets" rather than enforceable standards, and to any provision that would let a target be set aside as not achievable because the project fails to meet it; it supports MDMR's recommended performance standards. In its October 12 reply, Brown Bear asked FERC to decline MDMR's additional recommendations; Maine TU's reply comments, filed the same day, support MDMR's recommendations. FERC will prepare an Environmental Assessment, targeted for September 10, 2027.

Upper and Lower Barker Projects. Krueger Energy Inc. (KEI) operates the Upper and Lower Barker projects on the Little Androscoggin River in Auburn. Under a 2022 multi-project Settlement Agreement, fish passage was due at Lower Barker by June 1, 2024 and at Upper Barker by June 1, 2026, and KEI has met neither deadline. At Lower Barker, KEI filed a revised fishway operation plan and 90% designs with FERC on October 14 without agency approval. On October 23, FERC told KEI it cannot review the plan until all five resource agencies approve it and required monthly status reports, the next due November 30. On November 13, MDMR told FERC it does not approve the plan or designs, has received nothing from KEI since April, and objects in particular to a new concrete plunge pool that could block upstream migrants or mislead young eels.

Royal River Dams. Removal of the Bridge Street Dam, penstock, and concrete fishway is now complete; total project cost is $3.8 million, funded through state, federal, and private grants rather than local property taxes. Elm Street Dam removal remains targeted for summer 2027 pending additional funding, with final restoration and revegetation work to follow into spring 2028. Sebago Chapter's Luke Fogg (of Red Brook fame) will be working with the Royal River Conservation Trust on removing the Pownal State School Dam on Collyer Brook, the only Royal tributary rated above Class B, once the Elm Street Dam is out; Pineland Farms is selling property and has been approached by RRCT.

Lewiston Falls Project. FERC's July 24 Environmental Assessment found no significant impact. MDEP's July 8 Water Quality Certification requires 10 aesthetic flow releases a year, some on evenings and weekends (Brookfield proposed 6; TU and Auburn sought 40), and rejects Brookfield's 10-year delay of eel passage, requiring nighttime shutdowns from year one and an upstream eelway by year three. The project has operated on an annual license since August 31. Brookfield has asked Kennebec County Superior Court to review five WQC conditions, including the eel measures and a tailrace access evaluation, arguing MDEP could not impose them without an adjudicatory hearing. One targets a recreational-access reopener, worth watching since recreation is central to the Coalition's November 13 Ripogenus/Penobscot Mills WQC comments. On September 28, NMFS found relicensing not likely to adversely affect Atlantic salmon, but noted that upstream salmon passage at Lewiston Falls is inconsistent with its Androscoggin River plan, which bears on the WQC salmon passage condition Brookfield is challenging. On November 4, FERC issued the executed Programmatic Agreement for historic properties, a step that typically precedes license issuance.

Presumpscot Projects (Dundee, Eel Weir, Gambo, Mallison Falls, and Little Falls). Relevate Power Maine LLC changed its name to HydroVal Power Maine LLC in August 2026; compliance activity continues across all five projects. Mallison Falls reported two headpond elevation excursions in September, on September 10 and September 22, each lasting about half a day. Matt Streeter is following the projects for Sebago TU.

Brush Mill Dam. Demolition anticipated in 2027. Funds from pending grant applications and additional donations are expected to reach the project goal of $615,000.

Libby's Camp Dam. Greg Ponte is in contact with the Libbys, who will accept TU help. No new developments.

Mayo Mill Dam. FERC received the dam's surrender application June 5, 2026; review is expected to take 18–24 months. The Atlantic Salmon Federation, which along with The Nature Conservancy is funding the project (following voters' 2025 rejection of a $9 million municipal bond), filed a state Waterway Development and Conservation Act permit application with MDEP by August 5, 2026; permits are also pending from the Army Corps, the state historic preservation office, and under the Endangered Species Act. A public information hearing was held July 20, 2026. Removal remains targeted for summer 2028, pending FERC approval. On September 30, FERC notified the Advisory Council on Historic Preservation that removal would adversely affect the American Woolen Company Foxcroft Mill historic district; mitigation will be worked out in a Memorandum of Agreement with the State Historic Preservation Officer. On November 4, NMFS wrote FERC about designating a lead federal agency for the surrender and decommissioning.

Bar Mills Project. Brookfield's June 2026 Draft Application for License Surrender and Decommissioning Plan proposes full removal of the Bar Mills Dam on the Saco River, along with the Rogers Fibre Mill foundation and a new hand-carry boat launch developed with the Town of Hollis. The 90-day comment period closed September 1; Maine TU Council filed in support of joint comments from the Towns of Buxton and Hollis, which ask Brookfield to resolve the future of the powerhouse and spillway, complete a Phase I environmental assessment and structural inspection, and finalize binding agreements on long-term maintenance and financial assurance before FERC's jurisdiction ends. MDIFW and MDMR also filed comments. Separately, FERC is reviewing Brookfield's request for a temporary headpond variance ahead of decommissioning; the U.S. Department of the Interior has intervened in that proceeding. MDEP has waived state water quality certification for the temporary variance. Brookfield filed its final Application for Surrender of License and Decommissioning Plan on October 14. It largely declined the towns' requests. It will keep the powerhouse and powerhouse spillway as Brookfield-owned structures, removing only the crane, gate house and some fixtures. It refused a Phase I environmental assessment, a structural inspection, financial assurance and a named successor regulator, saying the structures are "not being transferred, demolished, or abandoned," and called a Bar Mills-specific maintenance plan "neither necessary nor appropriate." Its reply to Maine TU's support for the towns was only that it "will continue to work with the Town of Hollis." Brookfield will still remove the dam in full and will coordinate with Buxton on demolishing the Rogers Fibre Mill foundation. It commits to preserving the existing canoe portage, Usher Island trails and parking. However, it will remove the planking at the existing boat launch, and the new Hollis access site remains under discussion. Well monitoring and fire-hydrant replacement plans are still to be developed. Brookfield applied to MDEP for its state permits and water quality certificate on October 29 and to the Army Corps on October 30. Construction is expected in 2028. The Towns of Buxton and Hollis will be responding to Brookfield's License Surrender Application, and Maine TU Council will continue to support them.

Hackett Mills Project. KEI filed its Water Quality Certification application with MDEP, which acknowledged receipt May 29, 2026. FERC issued a Notice of Reasonable Period of Time for the WQC application June 12, 2026, and a Notice of Intent to Prepare an Environmental Assessment June 15, 2026. The applicant responded to MDIFW's comments, recommendations, and preliminary terms and conditions on July 6, 2026. No new developments since last report.

Ellsworth Project. MDEP issued a final denial of Black Bear Hydro's (Brookfield's) resubmitted Water Quality Certification application on June 4, 2026 — the second denial of this application, following the original 2020 denial that was upheld on appeal through the Law Court in January 2025. The Department again found three independent deficiencies: failure to demonstrate attainment of aquatic life and habitat standards in the Union River between the Graham Lake and Ellsworth dams, failure to meet dissolved oxygen standards in Leonard Lake, and failure to provide safe, timely, and effective fish passage for Atlantic salmon, American shad, blueback herring, and alewife. The project continues to operate under an annual FERC license pending

resolution. On July 2, 2026, Brookfield petitioned the Kennebec County Superior Court under Rule 80C for review of the denial, bypassing the Board of Environmental Protection — the same procedural path taken at Lewiston Falls. In its earlier Ellsworth litigation, Brookfield escalated from Superior Court to the Law Court; a similar path is possible here depending on the Superior Court's ruling. On August 25, FERC concluded that a June 7, 2025 fish mortality event at the project would not be considered a violation of license Article 406; on November 17, Brett Ciccotelli filed comments and a fish kill report in response. Black Bear also reported a drought-related water level excursion at the Ellsworth development from September 21 to November 6.

Cobbosseecontee Stream. Upstream Cobbossee and the Conservation Law Foundation have petitioned the commissioners of MDMR and MDIFW for fish passage on Cobbosseecontee Stream. The petition, filed September 15 under Maine's fishway law, seeks passage at the Gardiner dams for alewives, blueback herring, eels, shad and Atlantic salmon; no state action has been reported.

Federal Legislation. The Hydropower Licensing Affordability Act (H.R. 9337, with Senate companion S. 5048, which had a hearing September 16) would limit federal Section 18 fishway prescriptions to measures that "reasonably mitigate the direct adverse effect" of a project on a fish population in the river system. That could narrow federal fish passage requirements at Maine projects. The bill does not affect state Water Quality Certification under Section 401 of the Clean Water Act. Referred to the Advocacy Committee.

NECEC Conservation Plan Appeal. NRCM, Maine Audubon, AMC and Trout Unlimited appealed MDEP's approval of the New England Clean Energy Connect transmission line's conservation plan to the Board of Environmental Protection, arguing it fails the permit requirement to conserve 50,000 acres in large, connected blocks of mature forest habitat; more than 2,000 Mainers signed a supporting petition. After a five-hour meeting on September 17, at which one member said, "I'm not convinced there's any mitigation whatsoever," the Board voted 5–0 directing MDEP to revise its proposed Board Order to address the plan's definition of "mature forest" and its proposed shifting-mosaic management strategy. The revised Proposed Board Order, on the Board's November 19 agenda for decision, would grant the appeal in part and deny it in part. The 50,063-acre easement would remain in place, including the two smaller habitat blocks the appeal challenged, but three new conditions would be added: a stronger, multi-species definition of "mature forest" proposed by forester Robert Bryan; replacement of the shifting mosaic with a Special Management Area of at least 10,000 acres within the easement, in no more than two contiguous blocks of at least 5,000 acres each, protected from cutting until it reaches mature forest (by 2127 at the latest) and kept as mature forest permanently; and no harvesting in stands 100 years old or older. NECEC would have 60 days to revise the plan, easement and forest management plan in consultation with MDEP and the Bureau of Parks and Lands.

Stream Connectivity Working Group. Dams that are not and were never assigned FERC project numbers will no longer be included in this report. For the status of non-FERC dam removals and other reconnection projects, please see the MDMR website at https://www.maine.gov/dmr/fisheries/sea-run-fisheries/programs-environmental-review/stream-connectivity-work-group. The report is produced by the Stream Connectivity Working Group that met on Thursday, November 12, 2026. Gene McKenna represented the Council in Lauren Pickford's absence.

Maine FERC Active Project Status Report. The next report will be published in January 2027.