

LD 1210
An Act to Regarding Renewable Electricity Generation by Hydropower Projects

Sappi - Somerset Mill
Written Testimony
Joint Standing Committee on Environment and Natural Resources
April 7, 2025 Public Hearing

Senator Teplar and Representative Doudera, members of the Joint Standing Committee on Environment and Natural Resources, I am Jim Brooks, the Environmental Manager of the Sappi Somerset Mill in Skowhegan and Fairfield, speaking in support of LD 1210.

Maine is losing its hydroelectric dams at a time when its need for this source of power – both environmentally and economically – cannot be understated. Between 1912 and 2024, Maine lost approximately 50 hydropower projects. But these hydropower projects are essential to meet Maine’s renewable electricity, decarbonization, and economic development policies and goals. Their loss is contrary to Maine’s Renewable Energy Portfolio Standard and detracts from the State’s efforts to fight climate change. For this reason, Sappi supports LD 1210’s explicit direction that the Maine Department of Environmental Protection (“DEP”) consider these benefits of hydropower projects, and the negative impacts of hydropower dam removal, when making decisions that impact their viability.

The Legislature has already acknowledged that the electricity generated by a hydropower project provides notable environmental benefits. It declared, at 38 M.R.S. § 631, that the surface waters of the State constitute a valuable indigenous and renewable energy resource and that hydroelectric generation utilizing these waters is unique in its benefits to the natural environment, particularly with regard to climate change. In fact, the Legislature determined, at 35-A M.R.S. § 3210, that 30% of Maine load must be satisfied by existing renewable electricity generation (including hydroelectric generation) and set reasonable goals for future consumption of electricity from renewable resources.

So too has the Legislature acknowledged that the electricity generated by a hydropower project provides important economic benefits. At 38 M.R.S. § 631, it further declared that hydroelectric generation makes a significant contribution to the general welfare of the citizens of the State and that, accordingly, it is the policy of the State to support and encourage hydroelectric generation.

It goes without saying that fewer hydropower projects significantly hinders Maine’s transition to renewable energy and deprives Maine of the important economic benefits of these projects. But current law, and its interpretation by the DEP, threatens these projects.

As part of its licensing before the Federal Energy Regulatory Commission ("FERC"), necessary to allow construction or continued operation of Maine's dams, the hydroelectric power projects like Shawmut¹ must obtain a water quality certification ("WQC") from the DEP.² In making decisions on whether to issue WQCs, DEP has taken the position that Maine water quality laws, which require the water to be "of such quality that they are suitable . . . as habitat for fish and other aquatic life," mean that DEP cannot issue a WQC for a dam if fish species cannot pass above the dam. So, the DEP could deny Shawmut the WQC, or require installation of unreasonably expensive fish passage at the dam. If the DEP denies the WQC, FERC cannot issue a new license for the dam, and the project must be decommissioned. Alternatively, if the DEP includes a condition in the WQC that requires unreasonably expensive fish passage, that could make the dam uneconomic and result in the need to decommission and remove the dam.³ The DEP's quarrel with relicensing of Shawmut is not with the quality of the water itself, but rather with the dam's impact on the habitat of fish and other aquatic life, specifically fish passage. According to the DEP, continued operation of the Shawmut dam would not allow a sufficient number of Atlantic salmon to pass through it, and for that reason DEP has signaled its intent to deny the WQC.

Of course, as acknowledged in 38 M.R.S. § 464(4)(H), hydropower project construction, reconstruction, structural alteration, and modification may cause some change to the habitat and aquatic life of the project's impoundment and the waters downstream of the project. What the DEP is not adequately weighing, however, are the notable environmental and economic benefits of hydropower, and the negative impacts of dam removal, in making its WQC decisions. LD 1210 changes that.

LD 1210 requires the DEP to weigh the adverse impacts of dam removal (and the corresponding loss of hydropower) against any potential benefit to fish habitat (which here can be addressed by construction of effective and cost-effective fish passage facilities would ensure compliance with state water quality standards). It is of utmost importance to Maine's renewable energy goals and economy that the DEP do so. In fact, it is of utmost importance to Sappi's Somerset Mill that the DEP do so.

Sappi's Somerset Mill directly employs roughly 750 people from many of the surrounding communities, contributing millions of dollars to the local economy. In addition, for every job at Somerset we estimate that there are eight jobs that Sappi supports both locally and around the state. Water is a critical resource in the Somerset Mill's operations, however.

¹ FERC issued its 40-year license for the Shawmut project in 1981 and is currently considering whether to re-license the project.

² Under Section 401 of the Federal Clean Water Act (33 U.S.C. § 1341(a)(1)), FERC cannot issue a license for a hydropower project unless the state in which that project is located certifies that the construction or operation of that project meets state water quality standards. Here in Maine, the DEP is the state agency that issues such WQCs.

³ When FERC issues a license for a hydropower project, the conditions in the state WQC become part of that federal license.

Sappi withdraws process water and discharges secondary treated wastewater to the Kennebec River at approximately the mid-point of the Shawmut dam impoundment. Removing the dam would drop the river water level 15 to 20 feet, to a depth of four to six feet, rendering the Mill's water intake and wastewater discharge systems inoperable.

Although Sappi has engaged engineering firms to determine whether there is a technical solution for Sappi's water infrastructure with a river level of only four to six feet, no technical solution has been identified. Sappi can't be expected to operate its flagship facility, in which the company has invested over \$600 million dollars in the last six years, on unproven technology.

So too could removing the dam negatively affect upstream infrastructure, including the Skowhegan wastewater treatment plant (which discharges treated water to the river in the Weston Project tailrace), the Maine Water Company's raw water pump for the town of Skowhegan (just upstream of the Shawmut project in the Weston tailrace), and the bridges that cross the Kennebec.

In other words, dam removal would have potentially devastating economic effects on Sappi's Somerset Mill, its employees, and its suppliers, and thus a similarly devastating impact on the surrounding communities whose economies are intricately linked to the Mill, not to mention the loss of the hydropower generated at the dam.

LD 1210 combats that problem by requiring that when the DEP is reviewing existing hydropower projects, it must consider the impact of its decision making on Maine's renewable electricity, decarbonization, and economic development policies and goals; the important environmental and economic of hydroelectric generation to the State; and the permissibility, given these policies, goals, and benefits, of the project's impact on the habitat and aquatic life of the project's impoundment and the waters downstream of the project.

Denial of a WQC or conditioning its WQC on uneconomic fish passage requirements could shutter the Somerset Mill. The negative economic and environmental impacts of dam removal greatly outweigh any potential environmental benefit that might be achieved by removal of the Shawmut dam, which benefits can be achieved through installation of economically viable fish passage facilities, without causing the economic harm that would be caused by dam removal. It is crucial that the DEP weigh these benefits and harms in making WQC decisions.

For these reasons, Sappi supports passage of LD 1210.