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My name is Gail Wippelhauser. I am providing comments in opposition to LD 1979

I have a Ph. D. in Zoology from the University of Maine. I recently retired from the Department of Marine Resources where I worked as a Marine Resources Scientist. For more than 20 years, my primary responsibility was to represent the Department during the Federal Energy Regulatory Commission's (FERC) relicensing proceedings for approximately 50 hydropower projects located in multiple river systems.

LD 1979 would require the Department of Agriculture, Conservation, and Forestry (DACF) to develop a comprehensive river resource management plan for every major river in the state that contains a hydropower project licensed or to be licensed under the Federal Power Act. DACF has no management authority for fish, wildlife, or water resources and lacks expertise and resources to develop such management plans. LD 1979 would require significant assistance from the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Environmental Protection, the Governor's Energy Office, and other state agencies as needed, and therefore, would require a large fiscal note.

LD 1979, which does not define a "major river", is moot because either 1) a management plan for the river exists, 2) the hydropower projects are FERC-non jurisdictional (they do not require a FERC license to operate), or 3) the licenses for hydropower projects in the river system are about to be issued or have been recently issued or amended and contain conditions that cannot easily be changed during the 30-50 year license term.

Maine's four largest river systems (Penobscot, Kennebec, Androscoggin, and Saco) have existing river management plans that have been accepted by the Federal Energy regulatory Commission (FERC) as Comprehensive Plans and have formed the basis for relicensing decisions since 1982. Maine's next three largest river systems do not have management plans but encompass non-jurisdictional hydropower projects or recently relicensed projects. The Saint Croix River is Maine's fifth largest. The lowermost hydropower project, located in Canada, is slated to be removed in 2022. The next two projects are FERC-non jurisdictional. The remaining projects have been relicensed recently.

The Piscataqua/Salmon Falls River, which borders Maine and New Hampshire, is Maine's sixth largest river system. The lowermost project has fish passage facilities, and the next three projects are currently undergoing relicensing with one Licensee applying for a License Surrender. The Presumpscot River is Maine's seventh largest system. The licenses of the four lower hydropower projects were amended in 2018 by a multi-party settlement.

LD 1979 would make it impossible for Maine resource agencies to advocate for more protective fish-passage standards and water quality standards than those that the Federal Energy Regulatory Commission proposes. The Federal Power Act (FPA) provides limited opportunity for state resource agencies to protect natural resources. FPA Section 10(a) **only requires FERC to**

consider resource agency recommendations for ensuring that a project is best adapted to comprehensive plans for developmental and non-developmental resources. FPA Section 10(j) **only requires FERC to consider resource agency recommendations** to protect, mitigate damages to, and enhance fish and wildlife resources. FPA Section 18 authorizes federal resource agencies **only to prescribe upstream and downstream fishway passage requirements**.

In recent relicensing proceedings, FERC has not supported recommendations made by the Department of Marine Resources (DMR) for effectiveness testing of new fish passage facilities and did not support DMR's performance standards recommended for the Shawmut Project. Prescriptions filed by federal resources agencies must be included in a license, but whether requirements for effectiveness testing or fish passage performance standards will be accepted by FERC as "fishway passage requirement" remains untested.

LD 1979 would threaten the ability of Maine's Department of Environmental Protection (DEP) to independently enforce the Clean Water Act. DEP needs this ability to maintain the authority that the U.S. Environmental Protection Agency (EPA) delegated to the state. Passage of LD 1979 risks EPA revoking Maine's delegated Clean Water Act authority and taking over enforcement from DEP. Why would the State relinquish its rights?

The FERC relicensing process makes the project decommissioning and dam removal nearly impossible. Seven hydropower dams in Maine have been removed for various reasons. Edwards Dam impacted multiple species of migratory fish, including the endangered shortnose sturgeon, and the reduced value of Licensee's power contract made installing fish passage uneconomical. Installation of required fish passage made the Fort Halifax and Madison Electric Works projects uneconomical. A Settlement Agreement allowed the Veazie, Great Works, and Howland projects to be purchased and removed. Smelt Hill Dam was removed after a flood rendered the project inoperable. The Saccarappa Dam was removed in part for economic reasons. These dam removals in combination with fish passage facilities have resulted in highly successful river and fishery restorations throughout Maine. The language in LD 1979 would projects like the Edwards Dam removal in 1999 and the Penobscot River Restoration Project, completed in 2017, impossible.

Dam removals have never been a threat to jobs in mills. In fact, in the Edwards and Penobscot dam removal projects, mills that need to move their infrastructure did not have to pay to do so. The funds for new infrastructure came from the entities that bought and removed the dams.

Thank your for your consideration of these comments.