Natural Resources Council of Maine
3 Wade Street • Augusta, Maine 04330 • (207) 622-3101 • Fax: (207) 622-4343 • www.nrcm.org

Testimony in Opposition to LD 212, An Act to Require the Valuation of Energy Produced by Hydropower Dams and Exploration of Alternative Ownership Options Before They Are Removed

Before the Committee on Environment and Natural Resources

Luke Frankel, Staff Scientist

April 7, 2025

Senator Tepler, Representative Doudera, and distinguished members of the Environment and Natural Resources Committee, my name is Luke Frankel, and I am the Staff Scientist at the Natural Resources Council of Maine (NRCM). NRCM is Maine's leading nonprofit, nonpartisan membership organization dedicated to protecting the environment on behalf of our nearly 20,000 supporters statewide and beyond. I am here today to testify in opposition to LD 212.

This bill amends the Maine Waterway Development and Conservation Act (MWDCA), a law that outlines the permitting process for hydropower dams in Maine, to require that applicants provide two additional pieces of information before they can receive a permit for dam removal. These additional requirements are: (1) "an evaluation of the monetary value of the electrical or mechanical power that the dam is capable of generating" and (2) demonstration that "all reasonable efforts to sell the dam [were made] and [the applicant] was unable to reach an agreement on a sale with an alternative owner."

We are opposed to these additional blanket requirements that would apply to all hydropower dams regulated in Maine because it does not make sense in the context of most dam removal projects and would generate unnecessary, redundant work for both applicants and the Maine Department of Environmental Protection (DEP). Most dam removals in Maine occur because the asset is no longer economically viable and may have become essentially a liability, posing significant risks to public safety and/or the environment as it stands. Requiring dam owners to spend time and money documenting the potential value that their assets have in terms of power generation and any efforts made to sell these assets would place additional hardship onto what are often already dismal economic situations.

In the case of many dam removals in Maine, the previous owners filed petitions to be released from ownership and water level maintenance using the process established in statute after being unable to sell their asset.[1] Through this process, owners are required by law to consult with nearby landowners, state agencies, and jurisdictional municipalities to see if they would like to purchase the dam and document this consultation. Requiring the new owners to repeat this process once they decide to remove the dam would be an unnecessary duplication of effort.

For the cases in Maine where the monetary evaluation requirement proposed in LD 212 is relevant – large hydropower dams that generate substantial electricity – the requirement already

[1] 38 MRSA §§ 901-909

exists under the Federal Energy Regulatory Commission's (FERC's) licensing process. As prescribed by the Federal Power Act (FPA), FERC's primary responsibility is to ensure that any action taken on a dam, including removal, is performed in the best interest of the public and represents the "best adapted use" of the waterway. This means that when making decisions, FERC is required to do cost-benefit analyses (which includes estimating the value of electricity generated by projects) and perform alternatives analyses to determine which action represents this "best adapted use." Since this is already an action performed by the federal agency that authorizes the removal of hydroelectric dams, there is no need to require owners to do so at the state level.

In summary, the additional requirements to MWDCA proposed by LD 212 are not relevant to most dam removals in Maine and would instead provide additional hardship for dam owners seeking removal. In the cases where one of the proposed requirements is relevant, it is already covered under federal law. For these reasons, we strongly encourage the Committee to vote Ought Not to Pass on LD 212. Thank you for your time and consideration.