

**STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
and
LAND USE PLANNING COMMISSION**

IN THE MATTER OF

Central Maine Power Company)	
New England Clean Energy Connect)	
)	APPLICATION FOR NATURAL
#L-27625-26-A-N;#L-27625-TG-B-N;#L-)	RESOURCES PROTECTION ACT
27625-2C-C-N; #L-27625-VP-D-N; and)	PERMIT AND SITE LOCATION OF
#L-27625-IW-E-N)	DEVELOPMENT ACT PERMITS
)	
Site Law Certification SLC-9)	
_____)	

**GROUP 3 COMMENTS IN SUPPORT OF THE MERRILL STRIP ALTERNATIVE
AND CMP’S REQUEST FOR PROMPT LUPC DELIBERATION**

Intervenor Group 3¹ (Group 3) hereby provides its written comments in support of Central Maine Power Company’s (CMP) proposal to re-route New England Clean Energy Connect (NECEC) around the Beattie Pond P-RR Subdistrict using the Merrill Strip Alternative (“MSA”). While Group 3 believes the former route would have met the requirements of the Site Location of Development Act (Site Law) and Natural Resources Protection Act (NRPA), the MSA, though an overall very minor change, is unquestionably an environmental improvement. The Department of Environmental Protection (DEP) and Land Use Planning Commission (LUPC) should find that the MSA meets the relevant regulatory standards, and approve NECEC, for the reasons stated herein.

Group 3 also supports CMP’s requests to have the LUPC resume deliberations in December of 2019 and have Commissioner Pray review the record and participate in such deliberations.

¹ Lewiston/Auburn Chamber of Commerce is an intervenor in the Commission proceeding only. All other members of Group 3 are intervenors in both the Department’s and Commission’s proceedings.

Though a change initiated by CMP, the MSA will likely simplify the LUPC's deliberative process and ultimate decision by reducing record material and eliminating an apparently divisive issue for the LUPC. Given Commissioner Hilton's recusal and the current vacancy on the LUPC, Commissioner Pray's participation would increase the likelihood of having five votes, in either direction, and thus provide regulatory certainty for all parties.

General MSA Comments (Relevant to LUPC and DEP)

The NECEC should be approved with or without the MSA because its benefits vastly outweigh its environmental costs, especially given proposed mitigation techniques. The MSA, however, is on its face an environmentally superior alternative to NECEC crossing the Beattie Pond P-RR Subdistrict. The MSA is shorter by nearly 30 percent (1 mile versus 1.4 miles) and will use fewer structures, in an area almost exclusively used for private commercial timber harvesting. Therefore, MSA will create fewer and less significant construction, maintenance, and environmental impacts. Compared to the original alignment, the MSA impacts fewer vernal pools (0 versus 1), half the number of wetlands (8 versus 16), and about 23% as much wetland area. The MSA creates no temporary wetland impacts (0 versus over 3,000 feet), requires no permanent wetland fill, and converts only about 38% as much forested wetland. Beyond these obvious environmental improvements, the MSA is preferable because it is in the LUPC General Management Subdistrict, wherein the NECEC is an allowed use.

Site Law Comments (Relevant to LUPC and DEP)

Group 3 will not address each MSA application change relevant to the Site Law but will highlight a few of the MSA's significant benefits over the prior route.

Group 3 agrees with the visual impact analysis and conclusions of Terrence J. Dewan & Associates. The MSA will virtually eliminate the visual impact of NECEC from Beattie Pond due

to intervening topography and vegetation. While the MSA may create the potential for some new visual impacts, those impacts would be reasonable given the context in which they would occur: an area of extensive commercial logging on private land, not pristine wildness or public lands. The public will only be able to access areas of potential new visibility by driving on a privately owned and maintained commercial logging road at the discretion of the landowner. The fact that the potential for high visibility is created or expanded by recently cut or currently regenerating tree stands makes any potential visual impacts more reasonable. In sum, the MSA reduces the overall visual impacts of NECEC and will not adversely affect scenic character and or unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.

The TRC Survey Report concludes that there is no significant wildlife habitat (*e.g.*, deer wintering areas, significant vernal pools, bald eagle nest sites, or inland waterfowl and wading bird habitat) or suitable habitat for rare, threatened, or endangered species along the MSA. Group 3 defers on this issue to the expertise of the Maine Department of Inland Fisheries & Wildlife (MDIF&W), which concluded on October 23, 2019 that the MSA “does not appear to present significant adverse impacts to fisheries and wildlife resources.”

NRPA Comments (Relevant to LUPC and DEP)

Group 3 will not address each MSA application change relevant to the NRPA but highlights that the MSA will impact fewer wetlands and no wetlands of special significance. Though the MSA will reduce the need for temporary fill and permanent forested wetland conversion relative to the original alignment, CMP will not reduce the amount of land it originally proposed to preserve as mitigation for such impacts.

Conclusion (Relevant to LUPC and DEP)

The MSA is a minor but beneficial change. While Group 3 believes that the impacts associated with routing the NECEC through the Beattie Pond P-RR were reasonable, especially in when weighed against NECEC benefits, the MSA is an unequivocal improvement. The MSA is a timely and proper amendment to the NECEC, sought and finally achieved by CMP in good faith, based on an agreement with a private landowner over which CMP had no control. The area through which the MSA is proposed is privately owned commercial forest in various stages of cutting and regrowth, not a pristine wildness with unique or rare species and habitats, and not public land set aside for its recreational value or aesthetic beauty.

The MSA amendment is prime example of CMP seeking to use the iterative regulatory processes of the Site Law and NRPA to properly account for regulator and stakeholder concerns and improve a project by reducing its environmental impacts, at CMP's own expense. Therefore, the DEP and LUPC should approve NECEC with the MSA.

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Respectfully submitted,

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