

March 22, 2026

By Email Only

Board Chair
Board of Environmental Protection
c/o Board Clerk Ruth Ann Burke
17 State House Station
Augusta, ME 04333-0017
Ruth.a.burke@maine.gov

Re: Comments of Robert R. Bryan, Licensed Forester, on the Appeal of NECEC Transmission LLC Condition Compliance Order

Dear Board Members,

I am a licensed Maine forester and a resident of Harpswell, Maine. My consulting work has focused on forest practices that integrate timber management with wildlife habitat and other conservation values. This has included large investment ownerships in the Unorganized Townships of Maine similar to those that are the subject of this Appeal, as well as other large ownerships across the United States, amounting to millions of acres. In addition, I have worked on conservation ownerships and smaller family forests. The scope of this work often included forest certification audits on forests subject to working forest easements. I have written and co-authored guidebooks on forest management and wildlife, and most recently was a principal co-author of ***Forest Conservation Easements and Wildlife: A Review of Working Forest Conservation Easements, Their Potential for Conserving Wildlife and Wildlife Habitat*** (Maine Audubon, 2025).

I support the Appeal by the Co-Appellants Natural Resources Council of Maine, Maine Audubon, Appalachian Mountain Club, and Trout Unlimited because the DEP's Order does not address the concerns that I raised in my earlier testimony¹, nor the additional concerns of the Co-Appellants. My rationale and recommendations for changes are below:

The definition of mature forest lacks scientific credibility. On June 12, 2025 I submitted comments on the definition of mature forest proposed at that time. My recommendations were based on widely published recommendations for wildlife habitat applicable to Maine and my

¹ My testimony to the DEP was **Exhibit L** to the appeal filed by the Co-Appellants.

evaluation of mature forest wildlife habitats over 40 years of field experience. Unfortunately, the approved Forest Management Plan continues to use a 50-foot height threshold for “mature” forest habitat. As I noted in my comments, forests that are 50 feet in height are intermediate-aged forests that do not have large trees that provide wildlife denning and nesting sites, multiple canopy layers that provide nesting and feeding habitats for different bird species guilds (for example, mature overstory canopy nesters, mid-story nesters, or a shrubby layer for species that nest and feed there), and large downed and decaying trees that provide habitat for insects, fungi, and small mammals, which in turn benefit larger predators. Forest areas meeting the Plan’s minimum threshold of mature forest may be used by some mature forest species such as American (“pine”) marten, but they will not provide the range of forest characterizes necessary to support a diverse community of mature-forest wildlife.

Recommendation: The definition of mature forest should be revised to include a minimum 65-foot height threshold and at least 50% of the basal area in trees of at least 12” diameter at breast height (DBH), and at least 20% of the mature forest stands should be dominated by trees of at least 16” DBH. The 80 square feet of basal area in the current Plan, combined with the height and diameter measurements recommended here, should be suitable for hardwood species, but the minimum basal area should be revised to 100 square feet for mixed-wood and 120 square feet for softwood stands. Areas meeting these definitions are not intended to create “late-successional” or “old growth” stands, they simply describe key characteristics of stands that provide mature forest habitat, as opposed to the younger, intermediate-aged forest habitat that will result from the current definition of mature forest used in the Plan.

Business-as-Usual Forest Management. The Board ordered that “standard sustainable forestry operations commonly allowed in areas subject to working forest easements would not be consistent with the primary goal of the Conservation Plan.” However, because of the weak definition of “mature forests” and the lack of restrictions on cutting them once the mature threshold is reached, the Forest Management Plan will result in management practices and a forest age class distribution that is not substantially different than found on other forests subject to conservation easements in the region. While I am not aware of any easements that have a goal of 50% “mature forest habitat, because of sustainable harvest level requirements in all easements, the resulting forests are very likely to be similar in age class distribution and amount of mature forest habitat to those that will result from the Plan. As noted in my June 12, 2025 comments, after the forest reaches the 50% mature goal in 2065 as described in the Conservation Plan, by my calculations, clearcutting or other heavy harvesting could proceed at a sustainable rate of over 4,000 acres every 10 years. This is essentially business-as-usual commercial forestry and does not meet the intent of the Board Order. Because the Forest

Management Plan does not include age and height class distribution data for the current forest or into the future after the mature forest goal is met, this is an informed estimate, but well within the range that would be feasible to cut and meet the so-called “mature” forest requirements.

Recommendation. To remedy this problem, first, the mature definition must be substantially strengthened as recommended above. Second, the Management Plan should be required to include substantial blocks of forest that are maintained in a predominantly mature-forest condition. The Board should adopt the Appellant’s proposed modifications to include permanent forest block Board Order of at least 10,000 acres and consisting of no more than two contiguous blocks of at least 5,000 acres each, to be permanently managed as mature forest (as defined above), not subject to the shifting mosaic approach.

Timber Harvesting of Currently Mature Stands Will Delay Mitigation. The Forest Management Plan calls for cutting stands that are currently mature prior the Conservation Area meeting the 50% threshold of mature forest.

Recommendation: All existing mature forest areas should be protected now, along with a surrounding buffer to prevent the damaging edge effect of heavy cutting adjacent to the mature area.

The Plan Fails to Meet the 50,000-acre Requirement Through Large Forest Blocks. The Appellants have clearly shown how the Conservation Plan fails to meet the conservation goal through blocks of at least 5,000 acres in size.

Recommendation: The conservation remedy proposed by the Appellants, or an alternative approach that would achieve equivalent conservation goals, should be incorporated into the Conservation Plan.

Please reverse the DEP’s order and require NECEC to submit a conservation plan that actually conserves and protects mature forests.

Respectfully submitted,

Robert R. Bryan

cc: Service List