



Conservation
Law Foundation

Maine Board of Environmental Protection
17 State House Station
Augusta, ME 04333

March 23, 2026

RE: NECEC Transmission LLC Conservation Plan Appeal

The Nature Conservancy in Maine (TNC) and the Conservation Law Foundation (CLF) submit these comments as interested parties on the appeal from the Maine Department of Environmental Protection’s (DEP or Department) November 18, 2025, order approving the NECEC Transmission LLC Conservation Plan, as modified by the DEP (“November 2025 Conservation Plan”).

As set forth in our June 13, 2025, comments to the DEP, we did not believe that the NECEC Conservation Plan met the requirements of the Department’s and this Board’s orders approving the NECEC project. We continue to believe that is the case and therefore agree with the Appeal that more is needed for the November 2025 Conservation Plan to meet those requirements, and particularly to adequately meet the primary goal of promoting “conservation of mature forest areas.”

1. Background & Prior Engagement

Our organizations participated in the review of the Central Maine Power Company’s New England Clean Energy Connect Project (NECEC) proceedings as formal intervenors neither for nor against the project, consolidated into Intervenor Group 6. Our experts explained why the NECEC project, as originally proposed by the applicant, would have had unreasonable impacts and adverse effects on Maine’s natural resources. At that time, we advocated strongly for substantial revision of the original NECEC proposal, and imposition of certain conditions, to avoid, minimize and compensate for the project’s forest habitat fragmentation impacts.

In particular, our organizations provided testimony to support the requirement of a conservation plan that would mitigate the impacts of the NECEC project, especially those impacts associated with the

disruption to mature forest habitats and the species that relied on them. Ultimately, a conservation plan was adopted as a necessary condition by the Department in its approval of the relevant permit applications on May 11, 2020. See Condition #39, May 11, 2020, Maine DEP Order (DEP Order).

In its July 21, 2022, order approving the DEP Order, the Board modified the required conservation plan, notably increasing the amount of land required to be permanently conserved to 50,000 acres. See Condition #10, July 21, 2022, Maine Board of Environmental Protection Order (BEP Order).

In November 2021, NECEC Transmission LLC submitted an initial conservation plan which our organizations believed was wholly inadequate, failing to meet the requirements of the conservation plan as required by the BEP Order. TNC and CLF submitted formal comments to the DEP at that time outlining the ways the proposed conservation plan failed to meet the foundational obligations in the BEP Order and requesting that DEP reject the conservation plan. **(Attachment A)**

More than three years later, and well past the required submission date, a revised conservation plan was submitted in May 2025. By this time, the transmission corridor had been cleared and habitat fragmentation impacts were occurring but there had been no actions taken to mitigate those impacts. On June 13, 2025, TNC and CLF, while acknowledging that the revised conservation plan had some merit, submitted comments concluding that the revised plan still did not meet the terms of the BEP Order and outlined recommended changes to achieve compliance. **(Attachment B)**

In November 2025, the DEP issued an order approving the conservation plan, finding the plan in compliance with the BEP Order subject to several additional amendments and conditions.

In December 2025, the Natural Resources Council of Maine, Maine Audubon, Appalachian Mountain Club, and Trout Unlimited (Appellants) appealed the DEP order approving the November 2025 Conservation Plan to this Board. TNC and CLF sought leave to appear as interested parties in this appeal to provide comments and recommend additional measures that would allow the November 2025 Conservation Plan to achieve compliance with the BEP Order. Such leave was granted.

2. Recommended Changes to the November 2025 Conservation Plan¹

¹ TNC and CLF acknowledge that the conservation easement proposed in the November 2025 Conservation Plan has already been recorded but we believe that the Board should consider requiring changes to it consistent with our previous comments. Specifically, the commercial sale of gravel, sand, and rock should be prohibited, and language acknowledging

TNC and CLF acknowledge that the November 2025 Conservation Plan includes changes made by the Department partially in response to our June 13, 2025 comments.² As outlined below, however, our organizations still conclude that the November 2025 Conservation Plan as approved by the Department is not sufficient to meet the terms and conditions of the July 2022 Order of this Board.

a. Mature Forest Areas

The November 2025 Conservation Plan permanently conserves the minimum of required acreage, and does so entirely with a working forest conservation easement, despite the guidance from Section 10 of the BEP Order that:

while [...] commercial timber operations are not expressly precluded, 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.

Further, the BEP Order states that the Conservation Plan must:

Include a draft Forest Management Plan establishing how, consistent with the primary goal of the Conservation Plan, the conservation area(s) will be managed, including to provide blocks of habitat for species preferring *mature forest habitat and wildlife travel corridors along riparian areas and between mature forest habitat*.

Finally, under condition #10, the BEP Order states that, among other things, the required conservation plan must:

Establish as its primary goal the compensation for the fragmenting effect of the transmission line on habitat in the region of Segment 1 and the related edge effect by promoting habitat connectivity and conservation of mature forest areas.

the Wabanaki Nations and their connection to these lands should be added. See Attachment B at pp. 4-5.

² While TNC and CLF support the appeal, we also acknowledge that the November 2025 Conservation Plan enabled the permanent conservation of a block of 50,000 acres in nearly contiguous parcels in the immediate vicinity of Segment 1. We further acknowledge that the November 2025 Conservation Easement maintains contributions to the regional forest products economy and permanently secures opportunities for public access between West Forks and Jackman, a region renowned for outdoor recreation that sustains local economies. Finally, TNC and CLF acknowledge the previous efforts by the Department and other agency stakeholders to strengthen the conservation plan and its underlying conservation easement, including changes to the definition of "Mature Forest," the public disclosure of the stewardship funding amounts, the requirement of Stream Smart standards for new or replacement stream crossings, and the general prohibition on new easements and rights-of-ways in the conservation area.

Combined, these provisions clearly stand for the proposition that to comply with the BEP Order, the required conservation plan must represent a sufficient change from “standard sustainable forestry operations commonly allowed in areas subject to working forest easements.” The November 2025 Conservation Plan does not represent such a change. The attempt to satisfy these requirements by including riparian corridors and a “shifting mosaic” approach to increasing mature forest habitat within the conservation easement area over time does not comply with the letter and spirit of the BEP Order. The November 2025 Conservation Plan may represent a change from the current commercial forest management of the land but it still relies on insufficient criteria to meet the primary goal of conservation of mature forest areas. To achieve that goal, the November 2025 Conservation Plan should use the higher thresholds for defining mature forest called for in our previous comments – a minimum threshold firmly set at 55’ or taller trees and 80 sq. ft of basal area per acre. (Attachment B at pp. 3-4).

b. Conservation Land.

The November 2025 Conservation Plan meets the bare minimum concerning the quantity of land to be conserved – 50,000 acres. But as we noted in our prior comments and as set forth in the appeal, there is an issue with how that quantity is calculated and an even more important issue as to the quality of the land conserved in terms of meeting the requirement to focus on the management of mature forests.

As noted in our previous comments (Attachment B at 4), the area of conserved land is divided by approximately 17 miles of the NECEC transmission line. While the conservation area is required to be “in the vicinity of Segment 1,” we note that this area is being conserved to mitigate the fragmentation effects of the NECEC transmission line. During the original permit proceedings for the project, TNC estimated that approximately 5,000 acres of habitat would be impacted as a result of corridor development and associated edge effects. This estimate formed the basis for establishing the BEP Order’s requirements for the conservation plan, acknowledging that both the direct impacts from the cleared corridor and the edge effect on either side represented unreasonable impacts and adverse effects on Maine’s natural resources that required compensation.

In this November 2025 Conservation Plan, some of this edge effect impact area remains part of the required 50,000 acres of conservation area. It is not appropriate to consider those portions of the conservation area within 330’ of the NECEC line as adequate mitigation, given that those are the areas of impact from edge effects. Mitigation programs typically do not allow conservation of the impacted

areas to be counted as mitigation. It is our opinion that the land that is within 330' of the NECEC line is improperly counted by NECEC in satisfying the 50,000-acre minimum requirement because that area is subject to the edge effects of the cleared corridor. For clarity, we are not suggesting that these lands should be excluded from the conservation easement area; rather, additional acreage should be required to be conserved make up for this portion of the conservation area that should not count as mitigation.

More importantly, we most strongly urge the Board to require the conservation of additional acreage beyond that included in the conservation easement, and for this acreage to feature ecologically significant parcels, each of 5,000 acres or more and preferably adjacent to existing conserved lands, that may include extensive mature forest now and that would have opportunity to develop into late successional / old growth forest under conservation management. Absent such additional and quality acreage, the November 2025 Conservation Plan does not meet the "primary goal [of compensating] for the fragmenting effect of the transmission line on habitat in the region of Segment 1 and the related edge effect by promoting habitat connectivity and conservation of mature forest areas."

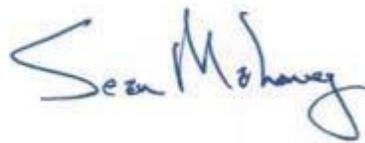
Conclusion

TNC and CLF recognize that there is a cost to the modifications set forth above. But that is a cost that the NECEC project must bear because of the burdens that its development has placed on the landscape. To not hold NECEC accountable to meeting the letter, never mind the spirit, of the BEP Order would fail the obligation the Board has to steward Maine natural resources for current and future Maine citizens.



Kate Dempsey

Maine State Director
The Nature Conservancy in
Maine



Sean Mahoney

Vice-President and Senior Counsel
Conservation Law Foundation

***The Nature Conservancy (TNC)** is a nonprofit conservation organization dedicated to conserving the lands and waters on which all life depends. Guided by science, we create innovative, on-the-ground*

solutions to our world's toughest challenges so that nature and people can thrive together. The Nature Conservancy has been leading conservation in Maine for more than 60 years and is the 12th largest landowner in the state, owning and managing roughly 300,000 acres.

Conservation Law Foundation (CLF) *is a public interest advocacy group that works to solve the environmental challenges that threaten the people, natural resources and communities in Maine and across New England. In Maine for almost four decades, CLF is a member-supported organization that has worked to ensure that laws and policies are developed, implemented and enforced that protect and restore our natural resources, are good for Maine's economy and environment, and address the climate crisis in a manner that recognizes the fierce urgency of that crisis, as well as the need to do so in a just and inclusive way.*

Attachment A

November 17, 2021

Mr. James R. Beyer
Director, Eastern Maine Regional Office
Maine Department of Environmental Protection
106 Hogan Road
Bangor, Maine 04401

RE: NECEC LLC Condition Compliance Submission for Condition #39 of Maine Department of Environmental Protection Site Location/NRPA Permit Numbers #L-27625-26- A-N, L-27625-TB-B-N, L-27625-2C-C-N, L-27625-VP-D-N, and L-27625-IW-E-N, for the New England Clean Energy Connect Project

Dear Mr. Beyer:

The Nature Conservancy in Maine (TNC) and Conservation Law Foundation (CLF) appreciate this opportunity to comment on the Conservation Plan submitted by NECEC Transmission LLC (NECEC LLC) to comply with Condition 39 of the final permit order issued on May 11, 2020 (the Order) by the Maine Department of Environmental Protection (the Department) for the New England Clean Energy Connect (NECEC) project.

The Department's Order requires that, "Within 18 months of the date of this Order, CMP must develop and submit to the Department for review and approval a plan (the Conservation Plan) to permanently conserve 40,000 acres in the vicinity of Segment 1." (Order p. 81).

This condition is central to the ability of the NECEC project to meet the Department's permitting standards. The Department found that, "as Segment 1 initially was proposed, the applicant had not made adequate provision for the protection of wildlife... Through further modification required as a condition of this Order, adequate provision for the protection of wildlife will be achieved." (Order p. 76). The Order further states that, "the landscape-scale wildlife habitat impacts associated with fragmentation that will occur, even with this vegetation management, will not be unreasonable, given that they will be mitigated and offset through the required additional conservation within the western Maine forest area in which Segment 1 is located." (Order p. 82). In other words, the Department found that the NECEC project's habitat fragmentation impacts would be unreasonable, if not for the mitigation that must occur through the conservation of 40,000 acres in the vicinity of Segment 1.

As noted in the Order, TNC advocated for this condition as a measure to compensate for the project's habitat fragmentation impacts (Order p. 80). In our post-hearing brief filed prior to the permit order, TNC and CLF (Group 6) stated, "In light of the NECEC's unreasonable impacts

and adverse effects on Maine’s natural resources as the project is proposed, the Department should only issue permits for the NECEC if the project is significantly modified to include a combination of measures that adequately avoids and minimizes the project’s habitat fragmentation impacts in Segment 1 of the proposed corridor, and that adequately compensates for any habitat fragmentation that cannot be avoided or minimized.” (Group 6 post-hearing brief, p. 20). We appreciated that the Department conditioned its approval of the NECEC permit on measures to avoid, minimize, and compensate for the project’s habitat fragmentation impacts, including the permanent conservation of 40,000 acres in the vicinity of Segment 1 to compensate for impacts that the Department found could not be avoided or minimized.

Given the Department’s finding that the NECEC project would have unreasonable impacts if not for significantly modified vegetation management practices and the conservation of 40,000 acres in the vicinity of Segment 1, it is essential that NECEC LLC adhere strictly to these conditions.

Unfortunately, NECEC LLC’s Conservation Plan, submitted on November 12, 2021—on the final day of the 18-month period allowed by the Order—is inadequate. The Conservation Plan fails to meet what we believe is the intent and letter of the Department’s Order.

Identification of conservation areas

The Order requires that the Conservation Plan must:

- “Identify the area(s), with a focus on large habitat blocks, to be conserved and explain the conservation value of this land; any conservation area must be at least 5,000 acres unless the area is adjacent to existing conserved land or the applicant demonstrates that the conservation of any smaller block, based on its location and other characteristics, is uniquely appropriate to further the goals of the Conservation Plan.” (Order p. 81).

The plain language of the Order—that NECEC LLC must “Identify the area(s)...to be conserved...any conservation area must be at least 5,000 acres”—is clear that the Conservation Plan must identify *specific areas* of at least 5,000 acres to be conserved (or smaller areas if adjacent to existing conserved land or otherwise appropriate). Instead, NECEC LLC has identified an “Area of Interest” (AOI) of nearly 7,000,000 acres. This AOI comprises approximately one-third of the land area of the entire state of Maine.

The Conservation Plan states that, “This AOI, in the vicinity of Segment 1, has been identified to ensure the following *are included*:

- Large habitat blocks of at least 5,000 acres;
- Smaller habitat blocks less than 5,000 acres that are adjacent to existing conserved land or that, based on location and other characteristics, are uniquely appropriate to further the goals of the Conservation Plan.” (emphasis ours)

However, the Department's Order does not require NECEC LLC to identify an AOI in which certain size habitat blocks are included; the Order requires NECEC LLC to "Identify the area(s)...to be conserved..." (emphasis ours).

It is entirely reasonable to expect that within the 18-month window that has elapsed since the issuance of the Order, NECEC LLC could have, at a minimum, identified specific parcels to be conserved and signed option agreements with landowners for acquisitions and/or easements for some, if not all, of the 40,000 acres. The intent, and we believe the letter, of the Order clearly requires NECEC LLC to identify these parcels. It certainly did not envision that the Conservation Plan would identify and focus on a 7,000,000-acre AOI.

Other Conservation Plan requirements

Because NECEC LLC has failed to identify a conservation area(s) in its Conservation Plan, the Plan's compliance with the Order's remaining requirements becomes difficult or impossible to evaluate.

In most cases, NECEC LLC simply restates the requirements of the Order to demonstrate compliance. For example, NECEC LLC states that the primary goal of the Conservation Plan is promoting habitat connectivity and conservation of mature forest areas; that they will ensure the availability of stewardship funding; and that they will ensure third party enforcement rights for the Department. However, there is no clear evidence that these criteria have been or will be met.

The requirement that NECEC LLC must explain the legal interest that will be acquired in each area, the proposed holder of the interest, the qualification of each holder, and preliminary consent from the holder was clearly intended to apply to a specific conservation area(s). However, the Conservation Plan again provides almost no detail, offering only the most general terms.

LandVest's draft forest management plan makes an effort to provide detail, but it is nevertheless difficult to evaluate its merit in the context of a specific conservation area(s), because it applies to such a wide range of potential scenarios spanning 7,000,000 acres.

Conclusion

NECEC LLC's Conservation Plan fails to meet its foundational obligation to "Identify the area(s)...to be conserved..." This failure is especially problematic given that the initial clearing in Segment 1 of the corridor is nearly complete.¹ The habitat fragmentation that the Department found unreasonable without mitigation has already occurred, but there is no meaningful plan in place to compensate for those impacts.

¹ Based on publicly available Sentinel satellite imagery.

TNC and CLF believe that the Department should reject the Conservation Plan as drafted. The Department should find that NECEC LLC is out of compliance with the Order, given its failure to submit a reasonable Conservation Plan.

Thank you again for the opportunity to provide these comments.

Sincerely,



Rob Wood
Director of Government Relations and Climate Policy
The Nature Conservancy in Maine



Phelps Turner
Senior Attorney
Conservation Law Foundation

Attachment B



Conservation
Law Foundation

Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333

June 13, 2025

RE: NECEC Transmission LLC Revised Conservation Plan

The Nature Conservancy in Maine (TNC) and the Conservation Law Foundation (CLF) appreciate this opportunity to comment on the revised Conservation Plan filed on May 9, 2025 by NECEC Transmission LLC. **While acknowledging certain substantial merits, our organizations conclude that this revised plan is not sufficient to meet the terms of the Maine Department of Environmental Protection (DEP) and Board of Environmental Protection (BEP) Orders. We describe the shortcomings of the Conservation Plan here and offer recommendations for revisions to achieve compliance with the Orders.**

Background & Prior Engagement

Our organizations participated in the review of the Central Maine Power Company's New England Clean Energy Connect Project (NECEC) proceedings as formal intervenors neither for nor against the project, consolidated into Intervenor Group 6. Our experts explained why the NECEC project, as originally proposed by the applicant, would have had unreasonable impacts and adverse effects on Maine's natural resources. At that time, we advocated strongly for substantial revision of the original NECEC proposal, if it were to be permitted, to avoid, minimize and compensate for its forest habitat fragmentation impacts.

In May of 2020, following DEP's decision to permit the project, [TNC](#) and [CLF](#) issued statements noting appreciation for several measures as meaningful steps toward addressing NECEC's habitat fragmentation impacts, including the requirement for permanent conservation of 40,000 acres in the vicinity of Segment 1 within 5 years. This requirement was subsequently increased to 50,000 acres in the July 2022 BEP Order.

In November 2021, NECEC Transmission LLC submitted an initial Conservation Plan which was wholly inadequate, failing to meet the requirements of the DEP Order. TNC and CLF submitted formal comments to the DEP at that time outlining the ways the plan failed to

meet the foundational obligations in the DEP order and requesting that DEP reject the Conservation Plan.

The revised Conservation Plan was submitted in May 2025, and comes over three years after the initial plan was submitted. The revised plan is the first version that provides the type of information needed for evaluation by the DEP. At this point, the transmission corridor has been cleared, habitat fragmentation impacts are occurring, and mitigation has yet to occur.

Benefits of Revised Conservation Plan

Under condition #39, the DEP Order states that, among other things, the Conservation Plan must:

Establish as its primary goal the compensation for the fragmenting effect of the transmission line on habitat in the region of Segment 1 and the related edge effect by promoting habitat connectivity and conservation of mature forest areas.

TNC and CLF appreciate that the revised Conservation Plan submitted by NECEC Transmission LLC to the DEP in May 2025 represents an opportunity to secure permanent conservation of a block of over 50,000 acres in nearly contiguous parcels in the immediate vicinity of Segment 1, that also:

- Intends to secure permanent habitat connectivity between existing conserved lands around Attean Lake to the west and Cold Stream and Moosehead Lake to the east, substantially expanding upon and connecting these two large contiguous areas of conserved lands into a single expanse of almost 450,000 acres, and making an important contribution to maintaining large scale habitat connectivity;
- Establishes provisions for riparian habitat protection and wildlife travel corridors along perennial streams; and,
- Permanently conserves an area along the Route 201 corridor, preventing future development.

We further appreciate significant values not expressly required by the DEP Order: the proposed Conservation Easement would maintain contributions to the regional forest products economy and permanently secure opportunities for public access between West Forks and Jackman, in a region renowned for outdoor recreation that sustains local economies.

TNC and CLF also wish to express appreciation to Weyerhaeuser as a voluntary participant in the proposed transaction, and to the Maine Bureau of Parks and Lands for their

willingness to hold the proposed Conservation Easement and accept the ongoing easement monitoring and stewardship responsibilities.

Recommended Changes to Achieve Compliance with Permit Orders

Permanent Conservation & Mature Forest Habitat:

The Conservation Plan proposes to permanently conserve the minimum of required acreage, and proposes to do so entirely with a working forest conservation easement, despite the guidance from Section 10 of the BEP Order that:

While [...] commercial timber operations are not expressly precluded, 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.

This means that the Conservation Plan and Conservation Easement must be evaluated to determine whether they represent a sufficient change from “standard sustainable forestry operations commonly allowed in areas subject to working forest easements” to determine if this Plan is adequately consistent with the primary goal.

The permit order states that the Conservation Plan must:

Include a draft Forest Management Plan establishing how, consistent with the primary goal of the Conservation Plan, the conservation area(s) will be managed, including to provide blocks of habitat for species preferring mature forest habitat and wildlife travel corridors along riparian areas and between mature forest habitat.

The Conservation Easement proposes riparian corridors and a “shifting mosaic” approach to increasing mature forest habitat within the Conservation Easement area over time. The Conservation Plan and Conservation Easement propose new criteria for determining which area of forest will qualify as mature forest:

“Mature Forest” is defined as 50 foot or taller trees with a minimum basal area of 60 square feet per-acre containing a mix of native species, accompanied by the presence of representative levels of well distributed standing dead and downed trees.

The proposed Conservation Easement includes the following requirement, along with the requirement to meet certain milestones of progress:

At a minimum, Commercial Forest Management Activities must result in 50% of the Productive Forest Acres as identified in the Baseline Document and Forest Management Plan of the protected property with 50 foot or taller trees consisting of

a mix of native species with a minimum basal area of 60 square feet per acre of live trees, accompanied by representative levels of well distributed standing dead and downed trees where present prior to management activity no later than December 31, 2065, and thereafter in perpetuity (the “Mature Forest Goal”).

The above provision does represent a meaningful change from the current commercial forest management on the property. However, it relies on insufficient criteria to meet the primary goal of conservation of mature forest areas. To achieve that goal, the plan should use higher thresholds for defining mature forest. We recommend a minimum threshold should be 55 foot or taller trees and 80 sq ft of basal area per acre.

The riparian corridors are an important component of mature forest connectivity, but the shifting mosaic approach and 50% acreage requirement do not guarantee “large blocks” of mature forest. Securing additional large blocks of future mature forest with no-cut areas would strengthen the Conservation Easement’s alignment and compliance with the Orders.

Edge Effect Impact Area and Acreage Mitigation:

Approximately 17 miles of the NECEC transmission line divides the proposed conservation area. While this can be seen as beneficial to meet the requirement in the Order that the conservation occur “in the vicinity of Segment 1,” we note that this area is being conserved to mitigate the fragmentation effects of the NECEC transmission line. During the original permit proceedings for the project, TNC estimated that approximately 5,000 acres of habitat would be impacted as a result of corridor development and associated edge effects. This estimate formed the basis for establishing the requirements in the conservation plan, acknowledging that both the direct impacts from the cleared corridor and the edge effect on either side represented unreasonable impacts and adverse effects on Maine’s natural resources that required compensation.

In this proposed Conservation Plan, some of this edge effect impact area is included within the proposed conservation area. It is not appropriate to consider those portions of the proposed conservation area within 330’ of the NECEC line as adequate mitigation, given that those are the areas of impact from edge effects. Mitigation programs typically do not allow conservation of the impacted areas to be counted as mitigation. It is our opinion that all area within 330’ of the NECEC line should be excluded from the total area that counts toward meeting the 50,000-acre minimum requirement.

As proposed, the Conservation Easement should not be viewed as meeting the terms of the order on a 1:1 acreage basis. Additional acreage should be included in the Conservation Plan.

Risks of further fragmentation:

The proposed Conservation Easement, in paragraph VII. A. 3., should be revised to expressly prohibit new rights of way, easements, etc., rather than allowing them with the Holder's prior written approval. The ability of the Conservation Easement to endure and meet its main purpose of reducing habitat fragmentation should not be subject to risk of future political change affecting policies of the Holder. At an absolute minimum, ALL such approvals should require Holder to consider adverse effects on the Conservation Values as defined in Section V of the Conservation Easement.

Commercial sale of sand, gravel, and rock:

The proposed Conservation Easement would be strengthened by prohibition of the commercial sale of gravel, sand, and rock by removing Paragraph VII. D. 3. iii.

Sufficient funding for easement monitoring and stewardship:

In Paragraph 3.4.4 of the Conservation Plan, NECEC notes it "has allocated funds for stewardship of the conservation lands for monitoring and enforcement of conservation plan requirements and to support achievement of CE goals. Appropriate stewardship funding amounts will be calculated, and funds disbursed, to the BPL along with conveyance of the CE for the Protected Property."

The public interest requires confidence that sufficient funding will be available to the BPL for long term easement stewardship, monitoring, and enforcement. The amount of funding that NECEC will provide to BPL should be publicly disclosed, as should BPL's provisions for ensuring the long-term security and availability of those funds for their intended purpose. Public disclosure of this funding would allow the DEP and the public to assess whether the allocated funding is sufficient for the task of monitoring and enforcing the terms of the easement.

Appropriate Easement Language:

While not explicitly required in the permit proceedings, we strongly recommend the following revisions to the Conservation Easement to acknowledge Wabanaki People and their connection to these lands. These changes model current best practices in other conservation easements:

- Add an appropriate recital or recitals acknowledging these lands are within the traditional territory of the Wabanaki and affirming the ongoing Wabanaki connection to these lands;

- Change Definition S. to “Traditional Non-Intensive Outdoor Recreational and Cultural Activities”; and,
- In definition S., insert “cultural or” before “recreational activities.”

Conclusion

Our organizations conclude that the proposed Conservation Plan and Conservation Easement are not sufficient to comply with the Order. However, with certain revisions detailed above, an amended plan would make a substantial and valuable contribution toward the primary goal of “compensation for the fragmenting effect of the transmission line on habitat in the region of Segment 1 and the related edge effect by promoting habitat connectivity and conservation of mature forest areas.” With the revisions proposed, this plan would make a significant contribution toward securing habitat connectivity.

We believe additional acreage should be added to the Conservation Plan to account for the portions of the edge effect impacts of the NECEC line that are located within the conservation area, and to achieve full alignment with the goals required by the DEP and BEP Orders. We also recommend higher thresholds for defining mature forest, increasing both the minimum tree height and minimum basal area.

DEP should require additions to the Conservation Plan to adequately meet the primary goal of promoting “conservation of mature forest areas.” Our organizations recommend improvements to the proposed Conservation Easement and also urge that the Conservation Plan should include conservation of one or more additional ecologically significant parcels, preferably each of 5,000 acres or more and adjacent to existing conserved lands, that may include extensive mature forest now and that would have opportunity to develop into late successional / old growth forest under conservation management.

We believe that a revised Conservation Plan that includes other strategically targeted conservation combined with revisions to this proposed Conservation Easement would appropriately comply with the Order.



Kate Dempsey
Maine State Director
The Nature Conservancy in Maine



Sean Mahoney
Vice-President and Senior Counsel
Conservation Law Foundation

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Conservation Law Foundation (CLF) is a public interest advocacy group that works to solve the environmental challenges that threaten the people, natural resources and communities in Maine and across New England. In Maine for almost four decades, CLF is a member-supported organization that has worked to ensure that laws and policies are developed, implemented and enforced that protect and restore our natural resources, are good for Maine's economy and environment, and address the climate crisis in a manner that recognizes the fierce urgency of that crisis, as well as the need to do so in a just and inclusive way.