



DEPARTMENT OF ENVIRONMENTAL PROTECTION

17 STATE HOUSE STATION | AUGUSTA, MAINE 04333-0017

BOARD ORDER

IN THE MATTER OF

NECEC TRANSMISSION LLC	) SITE LOCATION OF DEVELOPMENT ACT
Somerset and Franklin Counties	)
CONSERVATION PLAN	) APPEAL
APPEAL OF L-027625-0003	) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S. § 341-D(4) and Chapter 2 of Department rules, *Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2 § 23 (effective September 15, 2024), the Board of Environmental Protection (Board) has considered the jointly filed appeal of the Natural Resources Council of Maine (NRCM), Maine Audubon, the Appalachian Mountain Club (AMC) and Trout Unlimited (TU) (collectively, Appellants), along with the administrative record on appeal, the response of NECEC Transmission LLC (Licensee), the comments of interested persons, and other related materials on file, and FINDS THE FOLLOWING FACTS:

1. PROCEDURAL HISTORY:

In Department Order L-27625-26-A-N/L-27625-TG-B-N/L-27625-2C-C-N/L-27625-VP-D-N/L-27625-IW-E-N dated May 11, 2020 (May 2020 Order), the Department approved the applications of Central Maine Power Company to develop the New England Clean Energy Connect transmission project (NECEC Project) under the Site Location of Development Act and Natural Resources Protection Act. In Department Order L-27625-26-K-T, dated December 4, 2020, the Department approved a partial transfer of the Site Location of Development Act permit from Central Maine Power Company to the Licensee (2020 Transfer Order).¹

In Board Order L-27625-26-F-Z/L-27625-TG-G-Z/L-27625-2C-H-Z/L-27625-VP-I-Z/ L-27625-IW-J-Z/L-27625-26-AB-Z, dated July 21, 2022 (2022 Board Order), the Board affirmed the May 2020 Order, with the addition of 10 special conditions, and affirmed the 2020 Transfer Order.

Special Condition #39 of the May 2020 Order reads as follows:

¹ Central Maine Power Company also submitted a Permit-by-Rule notification form (PBR #71019) pursuant to Chapter 305, *Permit by Rule Standards*, 06-096 Ch. 305, § 17, to transfer the Natural Resources Protection Act permits associated with the NECEC Project. The Department accepted, or approved, PBR #71019 on October 13, 2020.

“Within 18 months of the date of this Order, the applicant shall develop and submit to the Department for review and approval a Conservation Plan, consistent with Section 7(D)(2)(a)(3), to permanently conserve 40,000 acres in the vicinity of Segment 1² [of the NECEC Project]. Prior to commercial operation of the project, the applicant must fully implement the approved Conservation Plan, unless, upon a showing by the applicant that it has made reasonable, good faith efforts to implement the Conservation Plan and addition[al] time, not more than four years from the date of this Order, is needed, the Department approves an extension of the implementation deadline. Prior to implementation, all forest management plans, and all conservation easements, deed restrictions, covenants, or other legal instruments designed to fulfill the objectives of the Conservation Plan, must be submitted to the Department for review and approval.”

Section 7(D)(2)(a)(3) of the May 2020 Order reads, in relevant additive part:

“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;
- 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;
- 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;
- Explain the legal interest, such as fee ownership or a working forest conservation easement, that will be acquired in each area; the proposed owner or holder of this interest; and the qualifications of each proposed owner or holder;
- Include preliminary consent from any proposed owner or holder;
- Explain how the applicant will ensure the availability [of] stewardship funding (e.g., funding for monitoring and enforcement) needed to support achievement of the goals of the Conservation Plan; and
- Ensure the Department will have third party enforcement rights.”

² Segment 1 is a 150-foot-wide right-of-way containing an approximately 53-mile-long direct current (DC) transmission line. It begins at the Maine/Quebec border in Beattie Township and continues to The Forks Plantation. It is a new transmission line corridor, located primarily in working forests.

Special Condition #10 of the 2022 Board Order reads as follows: “The Conservation Plan required by Special Condition 39 of the Department Order is amended to require permanent conservation of 50,000 acres in the vicinity of Segment 1.”

The 2022 Board Order also states, in Section 10(B)(8)(b): “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.”

On November 15, 2021, the Licensee submitted a conservation plan to the Department pursuant to Special Condition #39 of the May 2020 Order. The processing of this condition compliance application was tolled during the suspension of the May 2020 Order, between November 23, 2021, and May 15, 2023. On May 9, 2025, the Licensee revised the November 15, 2021, condition compliance application by submitting a revised proposed conservation plan to conserve 50,063 acres in the vicinity of Segment 1 (Conservation Plan) pursuant to Special Condition #39 of the May 2020 Order and Special Condition #10 of the 2022 Board Order. The revised application included an initial draft conservation easement to implement the proposed Conservation Plan. In response to comments submitted to the Department on the application, the Licensee submitted a revised proposed conservation easement on August 1, 2025, followed by a final revised proposed conservation easement on October 7, 2025 (Conservation Easement). The Licensee submitted an initial forest management plan on July 16, 2025, and a revised forest management plan on October 24, 2025 (Forest Management Plan). During the review period, the Department accepted comments on the application, including comments from Appellants. The Department reviewed the condition compliance application, considered all public comments, and issued Department Order L-027625-0003 on November 18, 2025 (November 2025 Order) approving the Conservation Plan, Conservation Easement and Forest Management Plan. The November 2025 Order is the subject of this Board Order on appeal.

2. APPEAL OF DEPARTMENT ORDER:

On December 18, 2025, NRCM, Maine Audubon, AMC and TU jointly filed with the Board a timely appeal of the November 2025 Order. Appellants request that the Board either remand the matter back to the Department or affirm all or part of the Commissioner’s decision with modifications and/or new or additional conditions.

3. BOARD AUTHORITY:

Pursuant to 38 M.R.S. § 341-D(4) and Chapter 2, § 23(J), the Board’s review is *de novo* and the Board is not bound by the Commissioner’s findings of fact or

conclusions of law but may adopt, modify, or reverse findings of fact or conclusions of law established by the Commissioner, or may remand to the Commissioner for further proceedings. Any changes made by the Board must be based upon the Board's review of the record, any supplemental evidence admitted by the Board, and any hearing held by the Board. The Board may hold a hearing on an appeal in its discretion. 38 M.R.S. § 341-D(4); Chapter 2, §§ 7(C), 23(J). Appellants and Licensee did not propose any supplemental evidence or request a hearing on appeal.

4. STANDING:

Appellants consist of non-governmental organizations advocating for the protection of existing land uses and wildlife resources in the project vicinity. All have members who live, work and recreate in the area described in the Conservation Easement (Easement Area).

The Board finds that Appellants are aggrieved persons, as defined in Chapter 2, § 1(C), and have standing to bring this appeal to the Board.

5. FINDINGS & CONCLUSIONS OBJECTED TO:

Appellants object to two findings in the November 2025 Order: (1) that the Conservation Plan promotes habitat connectivity and conservation of mature forest areas; and (2) that two habitat blocks approved as part of the Conservation Plan that are smaller than 5,000 acres are uniquely appropriate to further the goals of the Conservation Plan. Appellants summarize their argument as follows:

First, the Plan fails to comply with the "primary goal" imposed by the Department of providing "compensation for the fragmenting effect of the [Corridor] on habitat in the region of Segment 1 and the related edge effect by promoting habitat connectivity and conservation of mature forest areas" because it conserves very little mature forest and undermines habitat connectivity. Second, the Plan violates the Department's requirement that it provide for conservation of blocks of land that meet a minimum size of 5,000 acres.

Based on these objections, Appellants assert that the Department erred in its conclusion that the Licensee's Conservation Plan meets the requirements of the May 2020 Order and 2022 Board Order.

6. REMEDY REQUESTED:

Appellants request that the Board reverse and remand the November 2025 Order which approved the Conservation Plan and require the Department to address

the issues raised in the appeal or, in the alternative, affirm all or part of the Commissioner's decision with modifications or new or additional conditions. Appellants suggest that the Board could modify the approval to require the Licensee to:

1. Purchase (in fee) at least an additional 10,000 acres to be owned and permanently managed by the Department of Agriculture, Conservation and Forestry's Bureau of Parks and Lands or a conservation organization;
2. Adopt a new definition of "mature forest" that applies to the entire Easement Area and prepare a new forest management plan;
3. Within the Easement Area, create a Special Management Area (or Areas) of at least 10,000 acres in size, consisting of no more than two contiguous blocks of at least 5,000 acres each, to be permanently managed as mature forest, not subject to the shifting mosaic approach proposed in the Conservation Plan; and
4. Establish additional no-cut areas and/or restrict harvesting in and around the remaining ecologically mature forest within the Easement Area that will maintain those areas as mature forest indefinitely.

7. DISCUSSION AND RESPONSE TO APPEAL:

A. Promoting habitat connectivity and conservation of mature forest areas:

- (1) Section 7(D)(2)(a)(3) of the May 2020 Order requires the Conservation Plan to promote habitat connectivity and the conservation of mature forest areas.

In support of their argument that the Conservation Plan fails to "[promote]...conservation of mature forest areas," Appellants contend that "very little" of the Easement Area currently contains mature forest. Specifically, Appellants describe the lack of late-successional and old-growth forest stands and the presence of early stages of regenerating forest stands across much of the Easement Area. Appellants state that only 0.2% of the Easement Area consists of late-successional and old-growth forest stands, i.e., stands that are more than 100 years old; that 60% of the Easement Area is currently covered by trees under 35 feet tall; and that only 7% of the Easement Area is currently covered by trees over 50 feet tall.

The Board would not expect that forestland conserved through the Conservation Plan would contain significant acreage of late-successional or old-growth forest. Appellants state that only 3% of the unorganized areas in Maine contain late-successional or old-growth forest. Therefore, it is reasonable to conclude that any large tract of

forestland in the unorganized areas, such as the 50,063-acre Easement Area, would contain only a small percentage of late-successional or old-growth forest. More importantly, as the Licensee argues in its March 23, 2026, response to the merits of the appeal (Licensee's Response to Appeal), neither Special Condition #39 of the May 2020 Order nor Special Condition #10 of the 2022 Board Order require conservation of late-successional or old-growth forest. That is because, as further discussed below, the Department does not equate "mature forest" to late-successional or old-growth forest.

Regarding Appellants' statement that at least 60% of the Easement Area is currently covered by trees under 35 feet tall, and that only 7% of the Easement Area is currently covered by trees over 50 feet tall, the Licensee contends in the Licensee's Response to Appeal that the Easement Area is similar to other forested areas in the vicinity of Segment 1 and that it would be impossible for the Licensee to comply with the mandate to conserve land "in the vicinity of Segment 1" and simultaneously conserve a substantially higher percentage of existing mature forest than exists in the Easement Area, which is in the vicinity of Segment 1.

The Board finds the Licensee's argument more compelling. As the Department stated in the November 2025 Order, the Easement Area "contains the same type of forestland—working forest in the region of Segment 1—that the Department determined to have substantial enough value for habitat connectivity and mature forest species to require [the Licensee] to compensate for impacts thereto with the proposed Conservation Plan." It would be illogical and arbitrary for the Department to require compensation for impacts from Segment 1, and to require compensation to occur in the vicinity of Segment 1, but to subsequently deny the proposed conservation of the very same forestland immediately surrounding Segment 1.

The Board concurs with Appellants that the Easement Area has been heavily harvested. If the same harvesting regime were to continue prospectively, such a business-as-usual scenario would likely be insufficient to "[promote]...conservation of mature forest areas." (See page 56 of the 2022 Board Order: "Thus, while conceivable that some wood could be commercially harvested within the conservation area, standard sustainable forestry operations commonly allowed in areas subject to working forest easements would not.") However, the executed Conservation Easement does not continue business as usual; instead, it promotes conservation of mature forest through the establishment of a Mature Forest Goal, which requires that 50% of the

Productive Forest Acres³ in the Easement Area will be mature forest within 40 years and thereafter in perpetuity. The Board finds that the Mature Forest Goal, in addition to the overall Conservation Plan, sufficiently promotes mature forest in compliance with Special Condition #39 of the May 2020 Order and Special Condition #10 of the 2022 Board Order.

- (2) In further support of their argument that the Conservation Plan fails to promote habitat connectivity and conservation of mature forest areas, Appellants argue that the 40-year timeframe for achieving 50% mature forest in the Easement Area is insufficient to offset impacts that are occurring today. The Licensee responds that the extinguishment of development rights in the Easement Area provides habitat connectivity benefits today by immediately preventing any further habitat fragmentation within the 50,063-acre Easement Area. In the November 2025 Order, the Department also found that extinguishment of development rights provides immediate benefits for habitat connectivity and further stated that compensatory mitigation projects can take time to be fully implemented.

The Board agrees that a principle of compensatory mitigation is that compensation should be provided in the same timeframe as the impact caused by the activity. However, the Board finds that compensation for the habitat connectivity impact caused by the NECEC Project is, in fact, being provided now through the extinguishment of development rights in the Easement Area, which prevent any further impact to habitat connectivity in the conserved area from developments like the NECEC Project from the date the rights were extinguished. The Board also concurs with the Department's conclusion that it is appropriate to provide some temporal leeway for implementation of compensation projects. It will take 40 years to reach the Mature Forest Goal in the Easement Area not because the developer is delaying compensation, but because forest stands require time to grow. Similarly, as noted in the November 2025 Order,⁴ if a developer proposes to compensate for impacts to forested wetlands by restoring or creating forested

³ The Conservation Easement defines Productive Forest Acres as "any area capable of growing a crop of trees that can reach Mature Forest conditions. These areas will generally have a site index of 40 or greater or, at a minimum, the ability to support trees greater than 50 feet in height."

⁴ See pages 10-11 of the November 2025 Order: "...[T]his approach is not inconsistent with compensatory mitigation programs for wetland impacts that allow wetland restoration projects to be implemented over a period of years after the impact is permitted. Just as it takes time for a wetland restoration project to be implemented, it will take time for trees to mature in the proposed conservation area."

wetlands, the compensation project will likely involve planting saplings that require time to mature before the functions and values of the restored or created wetlands are fully realized.

Even the easement offered by Appellants as a template in this case supports this point. The Kennebago Conservation Easement, like the NECEC Conservation Easement, recognizes that forests take time to grow. Signed in 2023, it establishes a Late-Successional Forest Management Area, in which 60% of the area must be late-successional by the year 2125. The NECEC Conservation Easement, signed in 2025, establishes a Mature Forest Goal requiring 50% of Productive Forest Acres to be mature by the year 2065. Both recognize that there is some temporal delay associated with maturing and developing forests.

The Board finds that compensation for the NECEC Project complies with Special Condition #39 of the May 2020 Order and Special Condition #10 of the 2022 Board Order and is being provided in an appropriate timeframe.

- (3) Appellants further argue that the approved Conservation Plan's definition of "mature forest" is flawed because it is tailored to the preferences of a single species, the pine marten, when true mature forest would develop over the course of 100 years and contain different habitat features. Even if focusing on pine marten, Appellants argue that a better definition of mature forest would include a basal area of at least 120 square feet per acre and trees at least 60 feet tall.

The Licensee's Response to Appeal offers numerous examples from the record of the NECEC Project licensing proceedings that support a definition of mature forest to mean trees at least 30- to 40-feet tall. Appellant AMC's witness in the underlying licensing proceeding, Dr. Publicover, described mature forest as starting at 40 feet or 40 years. The Nature Conservancy (TNC) and Conservation Law Foundation (CLF), as intervenors in the underlying licensing proceeding, described mature forest as "trees at least 30-feet tall." TNC and CLF's witness, Dr. Simons-Legaard, described 30- to 40-year-old and 30- to 40-foot-tall trees as the beginning of mature forest, and drew a distinction between mature forest and old growth, with old growth starting at 100 years old. Based on the information above, the Board finds that the definition of mature forest that Appellants now seek—forests 100 years old—would be characterized as late-successional or old growth forest, rather than mature forest.

Further, the Board agrees with the Department's assessment in its November 2025 Order that during the NECEC licensing proceedings, the pine marten was recognized as an "umbrella" species whose habitat needs are representative of a wide range of other interior forest-dwelling species in Maine. The Department accepted pine marten habitat as a proxy for mature forest habitat when establishing conditions for approval of the NECEC Project, including the establishment of 12 Wildlife Areas⁵ to provide habitat connectivity across the corridor. Requiring a different definition of mature forest for approval of the Conservation Plan would be inconsistent with the Department's reliance on a pine-marten-centric definition in its review and approval of the underlying NECEC Project.

Additionally, as noted in the Licensee's Response to Appeal, NRCM, in its appeal of the May 2020 Order approving the NECEC Project, specifically called for the NECEC Project corridor to maintain vegetation that would conform to minimum habitat standards for pine marten: trees at least 30 feet tall (preferably greater than 40 feet tall), with a minimum basal area of 80 square feet per acre, a minimum canopy closure of 30%, and frequent snags (dead trees). Appellants' argument in this appeal for a different definition of mature forest to support pine marten—a basal area of at least 120 square feet per acre and trees at least 60 feet tall—is inconsistent with NRCM's previous statements and with the research literature on the minimum requirements for pine marten habitat.⁶

In any event, the Board finds that the definition of "mature forest" in the approved Conservation Plan—a combination of a minimum 80 square feet per acre basal area of trees at least 4.5 inches in diameter at breast height, with a minimum basal area of 60 square feet per acre of trees at least 50 feet tall, together with additional standing and downed dead trees—would satisfy pine marten habitat requirements in most cases and, therefore, is consistent with the Department's understanding of "mature forest" during the underlying NECEC proceedings and is sufficient to comply with Special Condition #39 of the May 2020 Order and Special Condition #10 of the 2022 Board Order.

⁵ Appendix C, Table C-1 of the May 2020 Order identifies 12 Wildlife Areas in Segment 1 of the NECEC Project. The Department required minimum 35-foot-tall vegetation in nine of the Wildlife Areas; minimum 25-foot-tall vegetation in one of the Wildlife Areas; and full-height canopy in two of the Wildlife Areas (and the Gold Brook crossing).

⁶ See footnote 1 in the November 2025 Order referencing [High Branch Conservation Services and Plymouth State University, Guidelines for Managing American Marten Habitat in New York and Northern New England](#).

- (4) Appellants argue that the Conservation Plan's "shifting mosaic" approach to forest management undermines mature forest conservation because it allows harvesting in a fashion that continually disrupts and eliminates mature forest habitat as soon as it meets the definition of mature forest.

The Board finds that the November 2025 Order adequately addresses Appellants' concerns regarding the "shifting mosaic" forest management strategy. As the Board finds above, the Conservation Plan meets the requirement to promote conservation of mature forest areas through the Mature Forest Goal, which requires that 50% of the Productive Forest Acres will be comprised of mature forest in 2065 and thereafter. At any given time, the Easement Area will contain approximately 6,900 acres of mature forest in riparian buffer areas and a minimum of approximately 18,100 acres of mature forest throughout the remainder of the property. Harvesting activity is not permitted to reduce these acreage minimums. It will only be possible to harvest mature forest when enough mature forest exists elsewhere in the Easement Area such that, after harvesting, at least 50% of the Easement Area is still mature forest. Regardless of whether a stand is harvested when trees are 50 feet tall or 70 feet tall, the fact remains that, after any harvest, at least 50% of the Easement Area will continue to contain forest stands that meet the definition of mature forest as discussed above.

Additionally, the Board finds that the existing working forestland in the region of Segment 1 is already a shifting mosaic of forest types, which the Department determined to have substantial enough habitat value to require the Licensee to compensate for impacts thereto. That is, the Licensee was required to conserve 50,000 acres in the vicinity of Segment 1 to compensate for the NECEC Project's impacts to a regional ecosystem consisting predominantly of working forest managed as a shifting mosaic. It is therefore appropriate to offset these impacts through the conservation of forestland that will be managed as a shifting mosaic of mature forest.

- (5) Appellants also argue that the Conservation Plan's reliance on riparian no-cut areas to provide the required wildlife travel corridors "between mature forest habitat" is inadequate because it does not guarantee travel corridors between upland areas of mature forest.

The Board does not find this argument persuasive. Figure 7 on page 25 of the Forest Management Plan displays the approximate location of riparian areas within the Easement Area and the areas of mature forest that are anticipated to exist in 2065. Figure 7 illustrates two

things. First, the riparian areas are numerous and distributed throughout the Easement Area, such that habitat for wildlife species walking or flying along the riparian areas will inevitably be connected to adjacent areas of mature upland forest throughout the Easement Area. Second, because 50% of the Easement Area will consist of mature forest in 2065 and thereafter, and because this mature forest will be distributed in a mosaic fashion across the Easement Area, it is unavoidable that mature forest stands will be connected to one another throughout the Easement Area. It is difficult to identify isolated stands of mature forest in Figure 7 that are not connected to other mature forest stands, either by riparian areas or upland mature forest. The strategy that Appellants critique—shifting mosaic forest management—is the same forest management strategy that is, in part, responsible for providing connectivity between mature forest stands throughout the Easement Area (in conjunction with riparian corridors).

Furthermore, Figure 7 illustrates that the Easement Area will contain significant acreage of trees 35 to 49 feet tall, as will be necessary to ensure there is adequate forestland that will mature in time to offset any future harvests of already-mature forest. The stands of 35- to 49-foot-tall trees will provide additional connectivity between mature forest areas, just as the minimum 35-foot-tall trees in the Wildlife Areas provide connectivity across the NECEC Project corridor.

For these reasons, the Board finds that the Conservation Plan, Conservation Easement and Forest Management Plan will provide the required “wildlife travel corridors along riparian areas and between mature forest habitat” in compliance with Special Condition #39 of the May 2020 Order and Special Condition #10 of the 2022 Board Order.

- (6) Based in part on their preceding arguments, Appellants contend that the Conservation Easement allows “standard sustainable forestry operations commonly allowed in areas subject to working forest easements,” in contravention of the 2022 Board Order.

The Board disagrees. The Department’s conclusion that the Conservation Easement “represents an improvement upon standard sustainable forestry operations commonly allowed in areas subject to working forest easements” is well-supported by the terms of the Conservation Easement and the evidence in the record. As noted in the November 2025 Order, the Maine Department of Inland Fisheries and Wildlife stated that “the [Easement Area] will have significantly more mature forest than would have likely occurred under a typical industrial forest management regime, and riparian habitat management

standards will greatly exceed those required by law.” The November 2025 Order also cited TNC and CLF’s joint comment that the Mature Forest Goal in the Conservation Easement “does represent a meaningful change from the current commercial forest management on the property.” The Department also drew an appropriate distinction between easements that have been placed on conservation lands held in fee by conservation organizations as ecological reserves, such as the Debsconeag Lakes Wilderness Area, and working forest conservation easements such as the Moosehead Region Conservation Easement. As noted by the Department in the November 2025 Order, the Moosehead Region Conservation Easement does allow standard sustainable forestry operations by allowing any forest management operations that comply with applicable laws. By contrast, the Conservation Easement requires 330-foot mature-forest riparian buffers and 100-foot no-harvest riparian buffers and further requires at least 50% of the Easement Area to be mature forest in perpetuity. As noted in the Licensee’s Response to Appeal, the Conservation Easement also limits plantations and gravel pits in perpetuity and prohibits subdivision of the Easement Area.

While the Kennebago Conservation Easement, referenced by Appellants, does provide an example of a working forest easement that requires 60% of approximately one-third of the conserved property to be in late-successional condition by 2125 and thereafter, the Licensee was not bound to follow that template. Appellants state that the Kennebago Conservation Easement is an example of “a better template that NECEC should have followed” (Appeal at footnote 65, page 16). However, the Licensee was not bound to follow an easement template; rather, the Licensee was bound to meet the requirements of Special Condition #39 of the May 2020 Order and Special Condition #10 of the 2022 Board Order. Those conditions require conservation of mature forest—not the late successional forest of the Kennebago Conservation Easement—and the promotion of habitat connectivity, which the NECEC Conservation Easement accomplishes for the reasons set forth in this Board Order and the November 2025 Order approving the Conservation Plan, Conservation Easement and Forest Management Plan.

The Board finds that the restrictions in the Conservation Easement are more stringent than “standard sustainable forestry operations commonly allowed in areas subject to working forest easements” in compliance with Special Condition #10 of the 2022 Board Order.

B. Habitat blocks of at least 5,000 acres:

- (1) Finally, Appellants argue that there are two blocks of habitat within the Easement Area, designated as E3 and E4 in the Forest Management Plan, that are smaller than 5,000 acres and should not have been approved because they are not “uniquely appropriate to further the goals of the Conservation Plan” or adjacent to existing conserved land. Appellants argue in favor of leaving these forested areas adjacent to the NECEC Project corridor open to development, rather than allowing development of forested areas farther from the NECEC Project, asserting that development adjacent to the corridor would reduce overall habitat fragmentation relative to the alternative of developing farther away.

The Department arrived at the opposite conclusion in its November 2025 Order, finding that allowing development in these blocks immediately adjacent to the NECEC Project corridor would exacerbate the corridor’s fragmenting effect. The Licensee supports this reasoning by stating in the Licensee’s Response to Appeal that excluding areas on one side of the corridor from conservation would discount efforts by the Department to create habitat connectivity across the corridor by, for example, requiring vegetative tapering and Wildlife Areas within the corridor. The Board finds the Licensee’s argument more compelling than Appellants’. It would be inconsistent to require measures to improve habitat connectivity across the NECEC Project corridor but to determine that the habitat immediately adjacent to the corridor is not worthy of conservation.

Relatedly, the Board agrees with the Department’s finding in the November 2025 Order that leaving blocks of unprotected habitat adjacent to the NECEC Project corridor would work at cross purposes with the requirement to conserve land in the vicinity of Segment 1. As the Licensee notes in the Licensee’s Response to Appeal, Appellants and TNC and CLF, in previous NECEC proceedings, emphasized the significant habitat value of the forestland in and adjacent to Segment 1, and NRCM, in its previous appeal of the May 2020 Order, specifically recommended that “the land conservation be near the impacted area.” The unique appropriateness of the habitat blocks comprising the 50,063-acre Easement Area, on both sides of the NECEC Project corridor, is further supported by the Bureau of Parks and Lands’ comments on the draft Conservation Plan cited in the November 2025 Order: “The proposed easement lies in a geography appropriate for the project: it is bisected by the transmission line, surrounds an existing Public Reserve Land (the Cold Stream Unit), and connects with adjacent landscape-scale conserved lands. As a result, the easement will promote habitat

connections during [the NECEC Project's] operation and beyond the [Project's] decommissioning."

For these reasons, the Board finds that habitat blocks E3 and E4 in the approved Conservation Plan, despite being smaller than 5,000 acres, are uniquely appropriate to further the goals of the Conservation Plan in compliance with Special Condition #39 of the May 2020 Order and Special Condition #10 of the 2022 Board Order.

Based on the above findings of fact, and incorporating the Commissioner's findings and conclusions on uncontested issues, the Board concludes that:

1. Appellants filed a timely appeal.
2. Appellants have standing as aggrieved persons to bring this appeal.
3. Licensee has complied with Special Condition #39 of the May 2020 Order and Special Condition #10 of the 2022 Board Order.

THEREFORE, the Board AFFIRMS the November 2025 Order approving the condition compliance application of NECEC TRANSMISSION LLC to implement a Conservation Plan to comply with Special Condition #39 of the May 2020 Order and Special Condition #10 the 2022 Board Order and DENIES the appeal of THE NATURAL RESOURCES COUNCIL OF MAINE, MAINE AUDUBON, THE APPALACHIAN MOUNTAIN CLUB, AND TROUT UNLIMITED.

DONE AND DATED AT AUGUSTA, MAINE, THIS _____ DAY OF _____, 2026.

BOARD OF ENVIRONMENTAL PROTECTION

By: _____
Robert Duchesne, Chair