



October 24, 2025

Dawn Hallowell  
Director, Southern Maine Regional Office  
Maine Department of Environmental Protection  
312 Canco Road  
Portland, ME 04103

**RE: NECEC Conservation Plan – Follow-Up Comments**

Dear Ms. Hallowell,

We appreciate the opportunity to provide additional public comments on the New England Clean Energy Connect (NECEC) Conservation Plan ("Plan") submitted by NECEC Transmission LLC ("NECEC") to the Maine Department of Environmental Protection (DEP) on May 9, 2025. The purpose of the Plan is to comply with Condition #39 of the May 11, 2020, Maine DEP Order ("DEP Order") and Condition #10 of the July 21, 2022, Maine Board of Environmental Protection (BEP) Order ("BEP Order"). These two conditions require NECEC to conserve at least 50,000 acres in the vicinity of Segment 1 of the NECEC project, subject to certain requirements. These Orders specify the type of parcels allowed to qualify for the Plan and they place a strong emphasis on mature forests and conservation of habitat for species that prefer mature forests.

Since the time when our groups submitted joint comments on July 12, 2025 ("Joint Comments"), NECEC has submitted a required Forest Management Plan (FMP) and two minor amendments to the Plan. NECEC reportedly is developing an updated FMP that it has shared with the Bureau of Parks and Lands (BPL), but our organizations have not yet received a copy for review and comment.

- On August 1, 2025, NECEC submitted a "response to the public comments" that included a few small changes in a redline version of the Conservation Easement.
- On October 7, 2025, NECEC submitted a redline version of the Conservation Easement with a revised "Mature Forest" definition, which NECEC described as its response to an October 3, 2025, communication from the DEP which stated that "NECEC must clarify or increase the basal area that will constitute mature forest conditions."

**We believe that the minor adjustments that NECEC has made to the Plan since July 2025 fail to meet the requirements established by the DEP and BEP.** As such, our assessment of the Plan remains unchanged since our June 12, 2025, comments, namely:

“After careful review of NECEC LLC’s submission, we conclude that the Plan fails to comply with the DEP and BEP Orders and must be denied.”<sup>1</sup>

Joint comments submitted on June 13, 2025, by The Nature Conservancy in Maine and Conservation Law Foundation (“TNC and CLF Comments”), reached a similar conclusion: “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.”<sup>2</sup>

The two sets of joint comments from nonprofit organizations submitted in June shared the common theme that the Plan did not include sufficient conservation elements to comply with the BEP and DEP Orders. The six conservation organizations were unified in concluding that **NECEC must alter its definition of mature forest and supplement its Plan with additional ecologically significant parcels that contain a greater amount of mature forest.**

This addition of land outside the Plan area is necessary because the lands selected by NECEC for the Plan do not currently contain enough older and taller trees, and their associated habitat types, to comply with the core requirement to conserve mature forest areas. Additional acreage is also necessary to meet the explicit requirement to conserve at least 50,000 acres, which we believe is not currently satisfied because two parcels that are less than 5,000 acres each fail to comply with requirements in the Orders. Simply changing the definition of “mature forest,” as NECEC did in its October 7, 2025, revision, does not change the fact that the Plan area is largely devoid of mature forest.

**The NECEC Conservation Plan fails to meet the requirements of the DEP and BEP orders for multiple reasons and should therefore be denied.**

### **1. Two Smaller Parcels Should be Disqualified**

The most prominent and clear requirement of the DEP and BEP Orders is that NECEC must conserve “a total of 50,000 acres.”<sup>3</sup> This acreage must consist of blocks of “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.”<sup>4</sup>

NECEC has not met this acreage requirement in accordance with the requirements in the Orders. Specifically, as noted in our June 12, 2025, comments, the Plan includes six blocks – four

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<sup>1</sup> Joint Comments pg. 1

<sup>2</sup> TNC and CLF Comments pg. 1

<sup>3</sup> BEP Order pg. 57

<sup>4</sup> DEP Order pg. 81

of which meet the 5,000-acre block requirement, and two of which (E3 and E4) do not meet the requirement. (See Appendix A, reprinted from Appendix C of the Joint Comments).

Although NECEC characterizes the proposed 50,000-acre conservation area as a “largely contiguous block,”<sup>5</sup> the conservation area is divided up into six separate blocks by three distinct fragmenting features.<sup>6</sup> These fragmenting features include the NECEC line itself, Route 201, and an existing east-west transmission line.

These fragmenting features must be considered when determining the boundaries of habitat blocks that can qualify for the Plan, since these types of features cause multiple impacts on habitat. Such impacts are well documented in the scientific literature, testimony as part of the proceedings on the DEP Order, and in the DEP and BEP Orders. One example is testimony by Dr. David Publicover, Senior Staff Scientist and Acting Director of Research with the Appalachian Mountain Club, on behalf of Intervenor Group 4 in the NECEC proceeding. Citing information in the Land Use Planning Commission’s 2010 Comprehensive Land Use Plan, Dr. Publicover said:

“‘Scientists have identified fragmentation of habitat as a serious concern. Roads, utility corridors, certain types of recreation trails, structures and clearings create breaks in the landscape. These breaks can act as barriers to animals and isolate populations of both plants and animals.’ Maintaining connectivity was one of three ‘super themes’ guiding wildlife conservation actions identified in the 2015 Wildlife Action Plan.”<sup>7</sup>

The Orders clearly require that blocks less than 5,000 acres be “adjacent” for the purpose of ensuring that parcels contribute toward the goal of compensating “for the impacts of the project on wildlife habitat, including habitat fragmentation.”<sup>8</sup> In this context—where the imposition of the condition was intended to *mitigate* the negative impacts of the NECEC line as a new fragmenting feature—the proper understanding of “adjacent” must mean that any proposed parcel of less than 5,000 acres must share a common border with other conservation lands to create unfragmented blocks that are larger than 5,000 acres so as to mitigate, rather than contribute to, the adverse impacts on wildlife caused by fragmenting features.

Two smaller blocks in the Plan fall below the 5,000-acre requirement even after existing adjacent conserved land is considered (Table 1). The block west of both the NECEC line and Route 201 (E3) is approximately 3,392 acres with only 301 acres of adjacent conservation land, amounting to a total acreage of 3,693 acres. The block in the center of the proposed conservation area (E4) that is surrounded on all sides by the three fragmenting features is

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<sup>5</sup> Plan pg. 8

<sup>6</sup> Joint Comments pg. 16

<sup>7</sup> Pre-filed Testimony of Dr. David Publicover, Appalachian Mountain Club, February 22, 2019, pg. 12. Additional studies and references on the fragmentation impacts of roads and transmission for wildlife and habitat are included in Appendix B.

<sup>8</sup> BEP Order pg. 57

approximately 514 acres with only 737 acres of adjacent conservation land, amounting to a total acreage of 1,251 acres.<sup>9</sup>

Based on our review of all Plan-related materials submitted by NECEC, we do not believe that NECEC has in any way demonstrated that these two smaller blocks are “uniquely appropriate to further the goals of the Conservation Plan,”<sup>10</sup> which is the criteria in the Orders that must be met in order for blocks smaller than 5,000 acres to qualify. These two areas are very similar to the surrounding industrial forest landscape and are therefore not unique in the conservation benefits they provide.

**Table 1.** Estimated acreages of the six blocks within the proposed conservation area and adjacent conservation land, with total block areas less than 5,000 acres highlighted in red.

| Block Name | Easement Area<br>(acres) | Adj. Conservation Name | Adj. Conservation Area<br>(acres) | Total Block Area<br>(acres) |
|------------|--------------------------|------------------------|-----------------------------------|-----------------------------|
| E1         | 18,021                   | C1                     | >58,000                           | >76,021                     |
| E2         | 16,803                   | C2                     | >85,000                           | >101,803                    |
| <b>E3</b>  | <b>3,392</b>             | C3                     | 301                               | <b>3,693</b>                |
| <b>E4</b>  | <b>514</b>               | C4                     | 737                               | <b>1,251</b>                |
| E5         | 6,185                    | C5                     | 4,063                             | 10,248                      |
| E6         | 5,348                    | C6                     | 723                               | 6,071                       |

Because they fail to meet the 5,000-acre individual block requirement, these two areas should be disqualified from consideration as part of the total acreage, which means that **the entire Plan falls short of the 50,000-acre overall requirement.**

**This shortfall alone provides sufficient grounds for DEP to deny the NECEC Conservation Plan since it clearly fails to meet the most unambiguous requirement of the DEP and BEP Orders.**

## **2. Failure to Meet Mature Forest Conditions**

The DEP also has ample grounds for denying the Plan because NECEC has failed to provide a sufficient response to the Department’s request that “NECEC must clarify or increase the basal area that will constitute mature forest conditions” (Emphasis added).<sup>11</sup> NECEC should have responded by *applying* the definition recommended by the Department in a manner that meets the requirements of the Orders, not just adopting the definition without otherwise changing an inadequately protective plan. Specifically, as described below, NECEC should have responded with a revised Plan that protects the small amount of existing older forests within the Plan area and NECEC should have committed to provide, through fee acquisition, additional acreage

<sup>9</sup> Joint Comments pg. 17

<sup>10</sup> DEP Order pg. 81

<sup>11</sup> October 3, 2025, communication from the DEP to NECEC

outside of the Plan area that contains existing older forests that would be allowed to grow to full maturity.

DEP's October 3, 2025, directive to NECEC clearly recognized that the 50,000 acres in the Plan area contains a very small amount of existing mature forest. Based on the use of LiDAR, a highly accurate technology for classifying forest stands, ecologist Dr. John Hagan concluded in his June 12, 2025, comments to the record ("Hagan Comments") that 95.8% of the Plan area is not late-successional and old-growth (LSOG) forest or transitioning late-successional forest.<sup>12</sup> The tree canopy in 78% of the area is less than 35 feet tall, with 35% of the canopy less than 10 feet tall, and only 7% of the area comprised of trees greater than 50 feet tall.<sup>13</sup> These calculations are based on classifying "every square meter in a stand,"<sup>14</sup> providing a highly accurate assessment of the Plan area.

Based on the LiDAR analysis, Dr. Hagan concludes: **"The proposed easement area has been one of the most intensively harvested areas of the unorganized township area of Maine in the last 20+ years."** (emphasis added).<sup>15</sup>

The current condition of the forest within the Plan area is what it is—the absence of existing mature forest cannot be remedied simply by altering a definition. By any objective measure, the current condition of the Plan area will require a lengthy timeframe—many decades—to become anything close to a mature forest. This is acknowledged by the FMP's proposed approach of trying to meet the requirements of the DEP and BEP Orders by managing the landscape toward a goal that 50% of the trees would be "mature" (using a deeply flawed definition) in the year 2065 – 40 years from now.<sup>16</sup>

The fragmenting impacts of the NECEC line have already begun and will continue to occur each coming year, yet the Plan requests that the regulatory bodies that provided a permit with strong conditions imposed to mitigate these adverse impacts wait 40 years for the forest in the Plan area to reach a condition that they implausibly describe as being "mature." Even in 2065, the condition of the forest would still fall far short of providing true mitigation through support of species that prefer and depend on mature forest.

Because NECEC chose these particular 50,000 acres, in the condition that they are in, which appears in part to have been a least-cost and profit maximization strategy, it had little choice but to put forth a definition of "mature forest" that was not supportable based on science. As stated by Dr. Hagan:

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<sup>12</sup> Hagan Comments pg. 3

<sup>13</sup> Hagan Comments pg. 3

<sup>14</sup> Hagan Comments pg. 6

<sup>15</sup> Hagan Comments pg. 4

<sup>16</sup> FMP pg. 16

“the ‘mature forest’ definition proposed in the Conservation Plan does not pass an ecological straight-face test. If 60 ft<sup>2</sup>/acre of basal area with some trees at least 50 ft tall is the criterion Weyerhaeuser is willing to meet, then call it ‘partially-cut mid-age forest.’ It is simply not ‘mature forest.’”<sup>17</sup>

Dr. Hagan further stated that based on his field experience, “mature forest would have a basal area of at least 120 ft<sup>2</sup>/acre and trees at least 60 ft tall.”<sup>18</sup>

Given the current condition of the forest in the Plan area, NECEC should have responded to the Department’s request to “clarify or increase the basal area” by ensuring the protection of existing high-basal area forests. Rather than just changing words in a definition, as NECEC did, it could have amended the Conservation Easement and FMP to, at a minimum, establish a moratorium on cutting all or most of the existing LSOG within the Plan area (which is approximately 124 acres) and some of the approximately 1,821 acres classified as transitioning late-successional forest.

This response would at least address a purpose of the conservation conditions imposed by the Orders by helping to ensure that the few remaining older and larger trees that presently exist within the Plan area could not, literally, be cut down tomorrow, which is the reality under the current Plan—even as the Plan purports to be responsive to the requirement of protecting “mature forest.”

But to actually bring this Plan into compliance with the Orders, NECEC should have responded to the Department by committing to secure, at a minimum, 10,000 acres of additional land through fee acquisition outside of the Plan area that contains a higher level of basal area per acre—including a significant portion at larger diameters, so that the starting point for this Plan would come closer to the expectation of a mature forest that also would clearly comply with the BEP Order’s requirement 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.”<sup>19</sup>

In the joint comments submitted by our organizations, we recommended that NECEC be required to secure, through fee easement, 15,000 to 20,000 acres of forest that is already in or closer to a mature forest condition.

The Nature Conservancy in Maine and Conservation Law Foundation concluded, in their joint comments, that the “Conservation Easement should not be viewed as meeting the terms of the

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<sup>17</sup> Hagan Comments pg. 1

<sup>18</sup> Hagan Comments pg. 1

<sup>19</sup> BEP Order pg. 57

order on a 1:1 acreage basis. Additional acreage should be included in the Conservation Plan.”<sup>20</sup> Specifically, TNC and CLF concluded that the Plan should include significant additional acreage of ecologically significant forest that is adjacent to existing conservation lands and that “contain extensive mature forest now and that would have opportunity to develop into late successional/old growth forest under conservation management.”<sup>21</sup> **The Department should Order NECEC to secure, at a minimum, 10,000 acres of forest with larger and older trees; otherwise it should find that the proposed Plan does not satisfy the condition it purports to address.**

### **3. Failure to Provide Conservation Management Designed for Older Forests**

Because NECEC effectively declined the Department’s invitation to bring its proposed Plan into compliance with the conditions required by the Orders, its condition compliance application must be denied. NECEC could have responded to the DEP’s October 3, 2025, communication not only by making changes that would protect the small amount of remaining LSOG in the Plan area, but also by securing through fee acquisition at least an additional 10,000 acres of forest with a higher volume of trees. It could also have ensured that those additional acres be managed through a conservation easement held by a land trust or Bureau of Parks and Lands that allows trees to grow to full maturity. The NECEC Conservation Easement falls far short of what is needed to allow trees to become and remain mature forest.

NECEC asserts that it has developed an “unprecedented conservation management” plan, a claim that it attempts to prop up with an unsubstantiated and inaccurate comment in the public record stating that the Plan “achieves conservation management to a standard previously unseen on private lands in Maine.”<sup>22</sup> This is simply not true.

**As demonstrated in Appendix C, the State of Maine and multiple land trusts manage conservation easements with much stronger provisions for the conservation of mature forests than what is proposed by NECEC.** Other than within protected riparian areas, the Plan allows all trees within the plan area to be cut through a “shifting mosaic” management approach that categorically does not incorporate the ecological value of allowing a significant portion of the trees to remain uncut and grow old—potentially hundreds of years old—and to connect those riparian areas with other areas of upland mature forest.

To meet such an objective, which would have been responsive to the requirement in the DEP Order to conserve “mature forest habitat and wildlife travel corridors along riparian areas and between mature forest habitats,”<sup>23</sup> NECEC could have looked no further than conservation

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<sup>20</sup> TNC and CLF Comments pg. 4

<sup>21</sup> TNC and CLF Comments pg. 6

<sup>22</sup> NECEC, August 1, 2025, pg. 10, quoting comments by R. Anderson

<sup>23</sup> DEP Order pg. 81.

easements that currently protect tens of thousands of acres in Maine, on private land, with provisions that allow trees to grow old, including the following: (note – this is only a subset; see Appendix C):

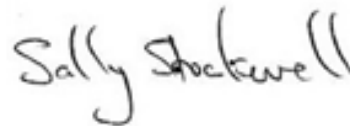
- Fourth Machias Lake Ecological Reserve
- No. 5 Mountain Preserve
- Leuthold Forest Reserve Addition (#6 Mountain)
- Grafton Forest Wilderness Preserve
- Alder Stream
- Debsconeag Lakes Wilderness Area
- Amazon-Musquash Reserve and Special Management Area

In sum, NECEC had many options that it could have pursued to respond to the DEP's request to "clarify or increase the basal area that will constitute mature forest conditions" in the Plan. The options outlined above would have ensured the protection of high-basal area forests within the existing Plan area. If the addition of at least 10,000 acres of fee acquisition were placed under the management of a nonprofit land trust or BPL with a conservation easement designed to allow much of that land to grow to full maturity, then NECEC could plausibly have claimed that the Plan meets the DEP and BEP's requirements for the project. **Absent such changes, we believe that the DEP must conclude that the Plan is in non-compliance and must be modified further.**

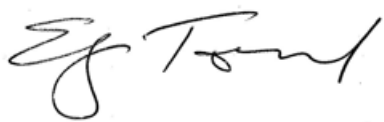
Sincerely,



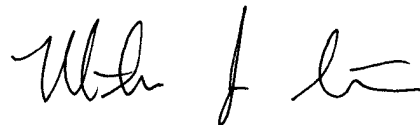
**Pete Didisheim**  
Senior Director of Advocacy  
Natural Resources Council of Maine



**Sally Stockwell**  
Director of Conservation  
Maine Audubon



**Eliza Townsend**  
Maine Conservation Policy Director  
Appalachian Mountain Club



**Matt Streeter**  
Chair  
Maine Council of Trout Unlimited

**Appendix A** – Map of the Six Blocks Within the Proposed Conservation Area and Adjacent Conservation Land (see link below)

**Appendix B** – Documentation of Fragmentation Impacts Caused by Roads and Transmission Lines (see link below)

**Appendix C** – Examples of Conservation Easements that Allow Forests to Grow to Maturity (see link below)

Due to the large file sizes, the appendices are being submitted via a shared [OneDrive folder](#) where they can be accessed and downloaded. This folder will be active for 90 days.