

Public Testimony
Suspension Hearing, NECEC Permit

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Today's Maine Department of Environmental Protection (DEP) hearing on whether to suspend the construction of the proposed New England Clean Energy Connect (NECEC) project will focus on the fate of 33 acres of public lands in Johnson Mountain Township and West Forks Plantation in Somerset County. These lands, held in trust for the people of Maine, will also play a central role in the upcoming election.

Central Maine Power (CMP) has argued that its illegal lease of 2014 (in violation of Title 35-A Section 3132 part 13), since replaced by a restated lease in 2020, does not affect its eligibility for the DEP permit issued in 2020, and the DEP has previously accepted this contention. Moreover, CMP has argued in the *Black v. Cutko* case that the protections of Maine Constitution do not or should not apply to the public lands in question in this matter. I disagree.

The Maine lands at the center of today's hearing are protected and managed today by the State of Maine in the public trust in large part because of the work of Bob Cummings, my father, the journalist for the Portland Press Herald and Sunday Telegram who first told Maine people in March of 1972 that we had over 400,000 acres of publicly owned land that we didn't even know existed – land that could be used, he proposed, for hunting, camping, and other recreational purposes.

Cummings reported that Maine's public lands had a long history of commercial exploitation, primarily by paper companies that treated our land as their own. It wasn't until 1981 that the Maine Supreme Court finally affirmed the State's right to these lands, removing them from the de facto control of paper companies that had purchased cutting rights to the lands in the 1800s.

In 1993 Maine voters stepped in and amended the State Constitution to protect our public lands from the whims of whatever party faction controlled the Blaine House by requiring 2/3rds approval of the state legislature for any sale or substantial change in use of our public lands. This referendum passed with the overwhelming support of over 72% of Maine voters.

Though we have come a long way since 1972 – winning back the rights to our public lands in the Maine Supreme Court and securing those rights in a constitutional amendment -- there remains a need for constant vigilance to ensure no one person, no one state agency or governor, can substantially change, sell or give away our lands without our consent.

This is what is at stake for the Maine people today.

Just as the town of Flagstaff will never reappear from under Flagstaff Lake, even though CMP only leases the dams that were built on State land in the 1950s, the lands we give to CMP for these transmission lines will not be returned to us in our lifetimes. Maine's public lands are, by statute, to be used for conservation, recreation, or wood harvesting purposes. When an alternative use is proposed, the state legislature has the responsibility, under the 1993 constitutional amendment, to approve or disapprove the change. Now that a Maine Supreme Court judge has terminated CMP's illegal lease, the Maine Department of Environmental Protection should act swiftly to cease all construction until CMP obtains this necessary approval.

The Department of Environmental Protection is responsible, along with all other state agencies, to operate in alignment with the State Constitution, and thus must now act to ensure our public lands, held in public trust for the benefit of all Maine people, are not misused by Central Maine Power.

Thank you for considering the important history of Maine's public lands and their Constitutional protections in your deliberations.

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