

## York, Marylisa

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**From:** Binney, Allison <[abinney@AKINGUMP.com](mailto:abinney@AKINGUMP.com)>  
**Sent:** Tuesday, October 19, 2021 7:11 PM  
**To:** DEP, NECEC; Beyer, Jim R  
**Subject:** Comments on New England Clean Energy Connect Project License Suspension Proceeding October 19 2021  
**Attachments:** Comments on New England Clean Energy Connect Project License Suspension Proceeding October 19 2021 4866-2262-6816 v.1.pdf

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Please accept these comments from the Penobscot Nation for inclusion in the public hearing record for the October 19, 2021 hearing on whether the license for the New England Clean Energy Connect Project should be suspended.

Thank you,

Allison

**Allison C. Binney**

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**Office of the Chief and Council**

Kirk E. Francis  
*Chief*

Mark Sockbeson  
*Vice-Chief*

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*Tribal Ambassador*



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October 19, 2021

Maine Department of Environmental Protection  
Board of Environmental Protection  
Commissioner's Office  
Via email: [jim.r.beyer@maine.gov](mailto:jim.r.beyer@maine.gov)

To Whom It May Concern,

These comments are being submitted on behalf of the Penobscot Indian Nation for the record as a part of the Maine Department of Environmental Protection's ("Department") public hearing held on October 19, 2021 regarding whether the license issued by the Department to Central Maine Power Company ("CMP") and NECEC Transmission, LLC ("NECEC, LLC") authorizing construction of the New England Clean Energy Connect project (the NECEC Project) should be suspended in light of the recent Superior Court decision, dated August 10, 2021, in *Black v. Cutko*, No. BCD-CV-2020-29.

Given that the Superior Court held that CMP and NECEC, LLC lack title, right and interest to the entire land needed to complete the NECEC Project, the Penobscot Indian Nation believes that the license for the NECEC Project should be suspended until the issue of title, right and interest is fully resolved. Allowing the license to stay in place will allow continued construction of the Project without a full resolution to the problem. This would result in undue influence on what the final resolution of the lawsuit and problem should be. The better approach is to suspend the license, conduct further analysis of alternative options and mitigation mechanisms, and seek input from the State Legislature and other stakeholders.

Approval of licenses and permits for the NECEC Project were fast-tracked and without sufficient input or consultation with stakeholders. This rush to begin construction in one of the last wildernesses east of the Mississippi River led to the current outcome in the Superior Court. Allowing the license to stay in place and construction to continue will only further exacerbate the problems with this Project. CMP and NECEC, LLC were aware of the risks when they rushed to begin construction and knew that right, title and interest in the relevant public lands were questionable. These corporate entities prefer to continue construction of the Project because they believe that doing so will prevent any second-guessing or further analysis of whether the Project makes sense for the people of Maine. The Penobscot Nation requests the Department to suspend the license and take time to fully consider the alternatives.

Representatives from the Penobscot Nation recently visited segment 1 of the NECEC Project. What we saw was significant clear-cutting beyond what was conveyed would happen during public discussions of the Project prior to the license and permits being approved for the Project. In most areas of segment 1, the clear-cutting exceeded more than 100 feet wide, and in some areas it was close to 150 feet wide. Additionally, there are piles of mulch more than 20 feet high that will prevent any regrowth of forest from happening anytime soon. Now that a court has found that CMP and NECEC, LLC lack title, right and

interest to the entire land needed to complete the NECEC Project, the Department should suspend the license and take time to better analyze the impacts of the Project on Maine's public lands, and also make sure that the conditions originally set forth in the permits and license are actually accomplishing their intended goals. The Department should also analyze the impacts on Maine's indigenous people, who have lived on these lands and relied on them for sustenance for thousands of years. The Department, CMP and NECEC, LLC failed to analyze the impacts of the Project on the migratory routes of wildlife in the area. These impacts need to be analyzed and any impacts need to be mitigated.

Vacating the license will allow for more dialogue and consideration of alternative routes, but also consideration of mechanisms for mitigating impacts of the Project on wildlife and waterways that the people of the Penobscot Nation and the people of Maine rely on for our cultural, sustenance and recreational needs. Allowing the license to remain in place only allows corporate entities to push forward with construction of the Project without any opportunity to rethink and ensure proper mitigation of the impacts of the Project on the people of Maine.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kirk Francis', with a long horizontal stroke extending to the right.

Kirk Francis  
Chief