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June 30, 2021

VIA ELECTRONIC MAIL AND U.S. MAIL

Mark C. Draper, Chair
Board of Environmental Protection
c/o Ruth Ann Burke
17 State House Station
Augusta, ME 04333-0017

RE: Central Maine Power Company, New England Clean Energy Connect
Department Order L-27625-26-V-M, L-27625-TB-W-M, L-27625-2C-X-M, L-27625-VP-Y-M, L-27625-IW-Z-M

Dear Chair Draper:

On behalf of Licensees Central Maine Power Company and NECEC Transmission LLC, please find enclosed a Response to NRCM's Appeal of the Minor Revision Order.

Please let me know if you have any questions.

Sincerely,

Matthew D. Manahan

Enclosure
cc (via email only): Service List (rev. June 10, 2021)

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION

IN THE MATTER OF

CENTRAL MAINE POWER COMPANY	)
NEW ENGLAND CLEAN ENERGY CONNECT	)
L-27625-26-V-M/L-27625-TB-W-M/	)
L-27625-2C-X-M/L-27625-VP-Y-M/	)
L-27625-IW-Z-M	)

CENTRAL MAINE POWER COMPANY AND NECEC TRANSMISSION LLC'S RESPONSE TO NRCM'S APPEAL OF THE MINOR REVISION ORDER

The Natural Resources Council of Maine (NRCM) seeks to impose on the Department – purportedly in the name of environmental protection – a burdensome and novel process for the DEP's review of minor revision applications that would, in fact, discourage improvement of licensed projects through revisions that actually *reduce* permitted impacts. This illogical result is the upshot of NRCM's continued strategy of obfuscation of the DEP's rules and procedures in an attempt to fatally delay the New England Clean Energy Connect Project (Project), this time muddying the DEP's Chapter 2 rules and the requirements of the Site Location of Development Act (Site Law) concerning minor revision applications. But the DEP's rules and the Site Law are clear, and the Commissioner appropriately applied them when she issued the May 7, 2021 Order (Minor Revision Order) approving Central Maine Power Company's (CMP's) and NECEC Transmission LLC's (NECEC LLC's) (collectively, Licensees') December 30, 2020 application for a minor revision (Minor Revision Application) of the May 11, 2020 DEP permit (Permit Order) for the Project.[1]

[1] Any comments on the Minor Revision Application were due to the DEP by February 1, 2021. *See* January 21, 2021 DEP email to the Service List, titled "Minor Revision Application NECEC," extending the comment deadline until 5:00pm on February 1, 2021. Licensees are aware only of the timely comments filed by NRCM, the Sierra Club, and the West Forks Petitioners. The Minor Revision Order, however, references comments received after February 1, 2021, all of which are untimely and should be excluded. *See* Minor Revision Order at 3 ("Following the

NRCM's argument that the DEP cannot process as minor revisions those project improvements that in aggregate exceed 20 acres, the threshold for the Site Law's applicability to the initial underlying project, makes no sense and would have far-reaching implications. First and foremost, the minor revisions approved here do not in the aggregate exceed 20 acres of new Project "land or water area." 38 M.R.S. § 482(2)(A). The vast majority of the revisions are within the existing corridor, which was subject to lengthy and thorough Site Law review. The addition of just over three acres to the Project right-of-way – at Bowman Airfield for aeronautical safety and in Lewiston for Section 3007 vegetation management clearances and to reduce the length of the Merrill Road Converter Station access road – is not significant in comparison to the overall Project and would not, standing alone, trigger Site Law review.[2] Minor Revision Application at Site Law pp. 3-6.

Commissioner's February 10, 2021 letter recommending the BEP not take jurisdiction over the application, the Department received numerous comments concerning Board jurisdiction and the New England Clean Energy Connect project. Most of these comments reflected concerns with the underlying project and were not specific to the minor revision application, except to state the application contained too much information to be considered a minor revision.").

A written response to the merits of NRCM's Appeal may be filed by any person who timely submitted written comment on the Minor Revision Application. DEP Regs. Ch. 2 § 24(C). Accordingly, any comments on the Minor Revision Application filed with the DEP or the BEP after February 1, 2021 confer no standing to respond to the merits of NRCM's Appeal, and responses to that Appeal by anyone other than the Sierra Club and the West Forks Petitioners should be disregarded. Furthermore, to the extent any comments or response filings purport to appeal the Minor Revision Order also are untimely and should be disregarded, as any appeal of the Minor Revision Order was due within 30 days of that Order, or by June 7, 2021. DEP Regs. Ch. 2 § 24(A).

[2] Contrary to NRCM's assertion, the three acres of new property would not trigger Site Law review even if they were not related to an existing Site Law permit, because they will not be "stripped or graded." NRCM Appeal at 3-4, n.5. New property will be converted from forested to early successional habitat, and property restoration will occur pursuant to the DEP-approved Vegetation Management Plan and Environmental Guidelines for Construction and Maintenance Activities on Transmission Line and Substation Projects. This new property therefore is not a Section 482(6)(B) "structure" – it is not a building, parking lot, road, paved area, wharf or other area to be stripped or graded and not to be revegetated – and therefore not a Section 482(2)(C) "development of state or regional significance that may substantially affect the environment." In fact, the only road proposed actually reduces the length of Project impervious area by 456 feet. As the Commissioner recognized, "some of the factual underpinnings of NRCM's argument are inaccurate. For example, the proposed changes will not result in three or more additional acres of area that will be stripped, graded, and not revegetated." Minor Revision Order at 5.

So too does NRCM falsely assert that "there is no revegetation deadline." NRCM Appeal at 3-4, n.5. Pursuant to the DEP's rules implementing the Stormwater Management Law, 38 M.R.S. § 420-D, any areas that the Project (and all revisions thereto) disturbs will be restored to pre-construction contours and revegetated within one month in the growing season following construction. DEP Regs. Ch. 500 § 4(C)(5)(d). Accordingly, even if the new property

Even if the approved minor revisions did in the aggregate exceed 20 acres of new property – which they do not – following NRCM's logic, when a developer proposes multiple revisions to a permitted project that decrease environmental impact, do not expand the project or change its nature, and do not modify the underlying permit, the DEP must re-review the entire project under the Site Law if the proposed revisions in the aggregate cross the 20-acre threshold. Conversely, following NRCM's logic, a developer would have to individually file as a minor revision application each and every proposed revision (here, for example, each minor pole shift across the entire 145-mile linear corridor project) to avoid a Site Law do-over of the whole project. Such a colossal waste of the Department's time and resources is not what the statute or the DEP's rules intend or require.[3]

I. The Site Law explicitly allows the processing as minor revisions of modifications to projects already permitted under the Site Law.

NRCM cites to no law requiring the processing of the Minor Revision Application as anything other than a Site Law minor revision, nor any law requiring new Site Law review of an already permitted project, nor any rationale for why the DEP would burden itself and delay project revisions that reduce environmental impact, because none exist. In fact, it is unclear exactly what NRCM is arguing – it again intentionally confuses and obfuscates the applicable

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did include areas to the stripped or graded, any such areas would be revegetated within the calendar year deadline set forth in the Site Law, and therefore would not be included in the 3-acre threshold triggering the Site Law. 38 M.R.S. § 484(6)(B).

[3] For example, NRCM reiterates its argument in its appeal of the Permit Order that "CMP and NECEC LLC do not have sufficient right, title, or interest in the public reserved lands underlying portions of the transmission line." NRCM Appeal at 1, n.1. These issues have already been thoroughly reviewed by the DEP and addressed in the Permit Order. Re-assessing Project-wide title, right, or interest (TRI) is unnecessarily duplicative and a waste of the Department's resources. Where property was added to the Project as part of the Minor Revision Application – at Bowman Airfield and in Lewiston – the DEP properly assessed TRI pursuant to the Site Law. To the extent the Board may consider NRCM's redundant TRI arguments here, Licensees incorporate in full their responses in the Permit Order Appeal and Transfer Order Appeal.

law – because the Site Law explicitly allows revisions to projects subject to the Site Law to be processed as minor revisions, if the revisions meet the Department's minor revision criteria:

> An application for an order addressing a minor revision must be processed within a period specified by the department if the applicant meets requirements adopted by the department.[4]

Indeed, the Minor Revision Application Form itself states that it is intended "For Site Location, Natural Resources Protection Act & Stormwater Projects."[5] The Minor Revision Application Form goes on to state,

> This form shall be used for minor revisions to a project that has received previous Site Law, NRPA or Stormwater Law approval from the Department, where the revision(s) significantly decreases or eliminates an environmental impact, does not significantly expand the project, does not change the nature of the project or does not modify any Department findings with respect to any licensing criteria.[6]

That is precisely what occurred here.

Stated differently, because the Site Law allows changes to large projects already under its purview via minor revision applications, "the question is not whether the proposed changes themselves would trigger Site Law – Site Law has already been triggered – but rather whether the changes from what previously was permitted qualify as a minor revision as that term is defined." Minor Revision Order at 4. The DEP's rules governing minor revisions as defined are clear: the Commissioner may modify an existing permit via a minor revision where the modification (1) significantly decreases or eliminates an environmental impact, (2) does not significantly expand the project, (3) does not change the nature of the project, or (4) does not modify any Department findings with respect to any licensing criteria. DEP Regs. Ch. 2 § 1(N).

[4] 38 M.R.S. § 486-A(7).

[5] Available at: https://www.maine.gov/dep/land/sitelaw/revision.pdf.

[6] *Id.* *See also* Minor Revision Application at 5.

While only one such criterion must be met in order to allow processing of a modification request as a minor revision, the Minor Revision Application nevertheless met all four criteria.

First, the approved revisions significantly decrease the permitted Project impacts. For example, permanent conversion of forested wetlands overall will be reduced by *more than 40 acres*. Minor Revision Order at 7; Minor Revision Application at NRPA Table 13-1. Further, the proposed modification to the permanent access road at the Merrill Road Converter Station will reduce permanent wetland fill in wetlands of special significance by 0.714 acre. Minor Revision Order at 7; Minor Revision Application at Site Law p. 6, NRPA p. 15. And the revisions also will reduce visual impact, for example at Moxie Pond, where the visual impact rating is reduced from moderate to minimal due to proposed structure location shifts. Minor Revision Order at 6; Minor Revision Application at Site Law Appendix B, page 4.

Second, the approved revisions do not significantly expand the Project. Where new property is added to the Project – at Bowman Airfield and in Lewiston – such minor additions of just over three acres to the Project right-of-way to accommodate air safety and required vegetation management, and to actually *shorten* the Merrill Road Converter Station access road by 456 feet, is not significant in comparison to the overall Project. Minor Revision Order at 8; Minor Revision Application at Site Law pp. 3-6.

Third, the approved revisions do not change the nature of the Project. The minor revisions in fact have no impact on the Project purpose at all, which is for Licensees to deliver up to 1,200 MW of Clean Energy Generation from Québec to the New England Control Area via an HVDC transmission line, at the lowest cost to ratepayers. Minor Revision Order at 8. As the Commissioner correctly noted, "the same transmission line will carry the same power through the same parts of Maine." *Id.* Upon the Commissioner's Minor Revision Order, however, the

same transmission line will carry the same power through the same parts of Maine with *less environmental impact*.

Finally, the approved revisions do not modify any Department findings with respect to any licensing criteria. Minor Revision Order at 8-9. To the contrary, the revisions in large part are the product of the DEP's findings, which NRCM acknowledged in its comments on the Minor Revision Application. NRCM Comments at 2 (Feb. 1, 2021).[7] Nevertheless, NRCM makes much ado about the Project re-route at Bowman Airfield, which was proposed in response to FAA requirements. NRCM appeal at 4; Minor Revision Order at 5. NRCM's argument is that because new property was required for this re-route, the re-route would "require modifications to findings of fact." NRCM Appeal at 4. NRCM misunderstands the procedure here. Of course the DEP must make new findings with regard to the proposed revisions. They are, "by necessity," new, as are any revisions to a permit. NRCM Appeal at 4. That is why the DEP applied the Site Law to the revisions proposed, including the Bowman Airfield re-route, to ensure that the proposed revisions will not "modify any Department findings with respect to any licensing criteria." DEP Regs. Ch. 2 § 1(N); Minor Revision Order at 5, 10; 38 M.R.S. § 484. NRCM's assertion that "[n]ew findings, by definition, entail changes to the existing findings with respect to licensing criteria as they apply to the project" is simply wrong. NRCM Appeal at 4. The fact that a minor revision order necessarily makes new factual findings (as it must) has nothing to do with whether the project improvements modify the Commissioner's prior findings with respect to any licensing criteria. NRCM Appeal at 4. New findings don't necessarily entail

[7] For example, approved revisions include minor pole location and access road modifications to comply with the impact avoidance and minimization requirements of the Permit Order. Minor Revision Application at Site Law p. 2, NRPA pp. 2-3. Modifications to comply with the Permit Order's Special Condition 12 result in significant decreases in permanent wetland fill, including fill in significant vernal pool habitat and inland waterfowl and wading bird habitat, and permanent forested wetland conversion. Minor Revision Application at NRPA p. 3.

changes to existing findings, and certainly not "by definition." Only if those new findings modify the Commissioner's prior findings with respect to any licensing criteria may the DEP decide to not process the improvements as a minor revision, if none of the other three prongs that would allow treatment as a minor revision are met.

Because the proposed Project improvements met not only one but all four elements of the minor revision definition,[8] the DEP properly processed the Minor Revision Application as just that, and as explicitly contemplated by the DEP's rules and the Site Law itself.

II. Requiring new Site Law review of the entire Project as modified would waste the Department's, the Licensees', and the public's time and resources.

NRCM's argument that the Minor Revision Order "improperly processes a development of state or regional significance as defined by the Site Law as a minor revision" simply because it alleges that the approved revisions aggregate to more than 20 acres (which they do not, nor do they aggregate to more than 3 acres stripped or graded and not to be revegetated) makes no sense, because that threshold already triggered Site Law review of the underlying Project. NRCM Appeal at 3-4. As explained above, the Site Law explicitly allows revisions to projects subject to the Site Law to be processed as minor revisions, if the revisions meet the Department's minor revision criteria, as they do here. Accordingly, the Commissioner aptly explained,

[8] At no point did the Commissioner "concede" that the first prong of the minor revision definition was not met here, as NRCM falsely claims. NRCM Appeal at 4. Despite being chastised for making such "inaccurate" statements to the DEP, NRCM continues to do so to the Board. Minor Revision Order at 5 Minor Revision Order at 5.

Nor should the approved revisions have been treated as "amendments" to the Permit Order, as NRCM alleges. NRCM Appeal at 1. Rather, the minor revisions are revisions and not amendments in part because they do not impact the Permit Order's findings. NRCM Appeal at 1. "Amendment Application" is defined as "an application to modify a license previously granted by the Department, except for minor revisions." DEP Regs. Ch. 2 § 1(C). "Minor Revision" is defined as "an application to modify a license previously granted by the Department, where the modification significantly decreases or eliminates an environmental impact, does not significantly expand the project, does not change the nature of the project, or does not modify any Department findings with respect to any licensing criteria. This term may be further defined by the Department by rule." DEP Regs. Ch. 2 § 1(N). The Minor Revision Application was a minor revision because it met the section 1(N) elements, and it was not an amendment application because amendment applications do not include minor revisions

> The overall project already is subject to Site Law and all subsequent modifications, including those in the present application will be subject to Site Law, as well. Site Law will be applied, not void, if the application is processed as a minor revision. [Minor Revision Order at 4]

It seems that NRCM misses this point. The DEP painstakingly and over multiple years conducted an exhaustive review of the Project pursuant to the Site Law and the Natural Resources Protection Act (NRPA). *See, e.g.,* Permit Order at 1 (succinctly describing the extensive regulatory review of and public participation in the permitting of the Project). And where a project is subject to the Site Law, the DEP reviews minor revisions to that project to ensure compliance with its prior findings and conclusions pursuant to the Site Law.

> While adjustments in pole location, shifts in corridor alignment, and other changes included in the application package by the licensees in aggregate involve more than 20 acres in land area and warrant Department review, the analysis of the proposed changes builds on the Department's prior review of the underlying project. Thus, the Department does not re-review the entire project, but instead focuses on the proposed changes and potential site-specific impacts. The landscape-scale impacts of the project, which the 20-acre Site Law threshold is intended to ensure do not go unreviewed, previously have been evaluated by the Department in the Department Order and the findings and conclusions in that order remain unchanged by the adjustments proposed by the licensees in the present application. [Minor Revision Order at 4-5]

The DEP's expert Staff has already engaged in a thorough review of the Project pursuant to the Site Law, NRPA, and DEP's rules implementing those statutes, including an analysis of alternatives to the Project and of the Project's environmental and visual impact.

Processing a modification to a development of state or regional significance as a minor revision, when the modification meets the minor revision definition, is just what the Site Law intends. 38 M.R.S. § 486-A(7). NRCM Appeal at 4. Does NRCM envision an entirely new Site Law review of an already permitted activity when revisions are proposed? Or would NRCM require the inefficient splitting of a group of minor revisions to avoid the 20-acre threshold already triggered for the underlying project in any event? Or is NRCM simply arguing that proposed revisions to a project that is a development of state or regional significance should be

reviewed under the Site Law, which is precisely what occurred here? Whatever NRCM's argument – and what that argument is remains unclear[9] – any process and procedure beyond what the DEP appropriately did here is illogical, duplicative, and would result in a waste of the DEP's, the Licensees', and the public's time and resources, and it also would be a strong disincentive for a licensee to improve its licensed project.

III. The Minor Revision is not a hazardous activity.

NRCM alleges that the approved minor revisions are a "hazardous activity" subject to the Site Law. NRCM Appeal at 2-3.[10] NRCM again misses the point. The Site Law does apply and has been applied to the Project, as well as to the proposed minor revisions, but that does not mean that each minor revision proposal requires an entirely new Site Law review of the entire Project, which has already occurred. Just as a duplicative analysis of the Site Law Section 484 standards makes no sense, a duplicative analysis of the Site Law Section 487-A(4) standards, which are in addition to the Section 484 standards, makes no sense. Section 487-A(4) provides:

> **4. Notice to landowners; transmission line or gas pipeline.** Any person making application under this article, for approval for a transmission line or gas pipeline shall, prior to filing a notification pursuant to this article, provide notice to each owner of real

[9] While NRCM's argument is unclear, its intent is obvious. It contorts the Site Law into a preservation law, under which any and all revisions must undergo some form of additional process that NRCM would impose to fatally delay this Project and any other project with any amount of environmental impact. But, as the Law Court has recognized, the Site Law is not a preservation law, it is "a controlled development law":

> The vast majority of developments approved under the Site Law, for example, have resulted in the conversion of large tracts of raw land, often cropland or forestland, into sites for industrial complexes such as pulp and paper mills, subdivisions for housing developments, and shopping malls with their great sprawl of buildings and even greater sprawl of parking lots. In each case, the site has been a natural resource whose existing use, quality and future value as such have been permanently lost. In each case, however, the developer was able to demonstrate to the Board's satisfaction that the development would have no more than a minimal adverse impact on the natural environment surrounding the site. *Valente v. BEP*, 461 A.2d 716, 719 (Me. 1983).

NRCM cannot bend the law to achieve its ultimate purpose here.

[10] NRCM failed to raise its Section 487-A(4) process and procedure arguments in its January 15, 2021 or February 1, 2021 comments, instead merely alleging that the Minor Revision Application "is a development of state or regional significance as a hazardous activity (38 M.R.S. § 487-A)." NRCM Comments at 1 (Jan. 15, 2021). Because NRCM argues for the first time on appeal to the BEP that the Section 487-A(4) "notice and public engagement requirements" and analysis of "alternatives" were note met here, it has waived those claims.

> property upon whose land the applicant proposes to locate a gas pipeline or transmission line. Notice must be sent by certified mail, postage prepaid, to the landowner's last known address contained in the applicable tax assessor's records. . . . . In addition to finding that the requirements of section 484 have been met, the department, in the case of the transmission line or pipeline, shall consider whether any proposed alternatives to the proposed location and character of the transmission line or pipeline may lessen its impact on the environment or the risks it would engender to the public health or safety, without unreasonably increasing its cost.

By its plain terms, Section 487-A(4) applies only to the initial application "under this article, for approval for a transmission line." Such application was made almost four years ago, in September 2017, at which time Licensees provided the notice[11] and a thorough alternatives analysis[12] that Section 487-A(4) requires. Licensees' December 2020 Minor Revision Application was not a new Site Law application "for approval for a transmission line" – it was for a minor revision of that approval. 38 M.R.S. § 486-A(4) ("An application for an order addressing a minor revision must be processed within a period specified by the department if the applicant meets requirements adopted by the department."). No new Section 487-A(4) information or findings are required here, as that provision was part of the DEP's review of the underlying Project, as a whole. Again, NRCM's logic would result in an incredible waste of public resources and clearly does not meet the intent of the Site Law or the DEP's rules implementing the Site Law.

[11] NRCM's complaint that the transmission line proposal lacks "public engagement," despite the multi-year public proceeding in which NRCM was a dedicated participant and which continues to date, is laughable. NRCM Appeal at 2-3.

[12] NRCM argues that the Minor Revision Order is devoid of an alternatives analysis. NRCM Appeal at 3. While such analysis is not required here, because the Minor Revision Application was not a new application under the Site Law or NRPA, it is entirely illogical in any event to require an analysis of alternatives to proposed modifications that reduce impacts already permitted by a license that was the subject of a thorough alternatives analysis. The Commissioner determined that the two proposed revisions that Licensees withdrew from the DEP's consideration at the DEP's behest did not meet the definition of a minor revision, and thus are not appropriate alternatives to be considered in a minor revision application in any event. Minor Revision Order at 3-4.

IV. A hearing before the Board is unwarranted.

Attempting to end-run the clear rules governing requests for a hearing, NRCM assumes that the Board will hold a hearing on its appeal of the Minor Revision Order upon consolidation with the pending appeals of the May 11, 2020 Permit Order and the December 4, 2020 Transfer Order. Based on that assumption, NRCM "does not request a separate hearing specific to these minor amendments," and instead asserts that "the Board should hold a public hearing as requested in those other appeals."[13] NRCM Appeal at 4. But the Chair ruled on June 10, 2021 that NRCM's request for consolidation makes no procedural sense, determining that it is more efficient to process NRCM's appeal of the Minor Revision Order "on its own procedural track," and therefore denied NRCM's request.[14] Because NRCM did not request a hearing in this separate appeal, none is warranted here.

Even if NRCM had requested a hearing on its appeal of the Minor Revision Order, the DEP's rules require that an appellant "provide an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any

[13] Licensees objected to and opposed NRCM's hearing requests included in its appeals of the Permit Order and of the Transfer Order on March 12, 2021 and February 18, 2021, respectively, and Licensees incorporate those objections herein by reference.

[14] Similarly, NRCM's argument that the Commissioner "wrongly approves the proposed modifications to the underlying permits at a time when the underlying project is currently before the Board" makes no procedural sense. As the Chair noted, in his June 10, 2021 ruling on NRCM's consolidation request, "[i]n its appeal of the Minor Revision Order, NRCM raises arguments not raised in the appeals of the underlying orders and will involve record evidence that is not part of the administrative record for the underlying appeals to be decided by the Board. The administrative economy of consolidating appeals of revisions to or amendments of the underlying NECEC Order diminishes with the increasing complexity of maintaining discrete administrative records associated with each licensing action." Indeed, minor revisions of permitted projects – including projects subject to the Site Law – are allowed to proceed unless the project is stayed. Because appeals do not automatically stay projects, the Commissioner may approve revisions such as those at issue here (that improve upon the permitted project) despite an appeal of that project, and any aggrieved party may then appeal that revision order "on its own procedural track" as NRCM has done here.

expert or technical witnesses would testify." DEP Regs. Ch. 2 § 24(B)(4). A hearing, discretionary under the DEP's rules, is appropriate only in those instances where there is (1) credible conflicting technical information, (2) regarding a licensing criterion, and (3) it is likely that a hearing will assist the Board in understanding the evidence. DEP Regs. Ch. 2 § 7(B).[15] NRCM fails to make any of the required proffers, and instead ignores DEP's straightforward rules of procedure. In any event, NRCM cannot show that there is any credible conflicting technical information regarding a licensing criterion for which a hearing would assist the Board, because NRCM's arguments are legal in nature. The Board should process the appeal without a hearing.

CONCLUSION

In sum, there is no logic in or basis to NRCM's allegation that the DEP's thoughtful and methodical minor revision to the Project's DEP permits – a revision that *reduces* impacts – ignores rules meant to protect Maine's environment. NRCM's renewed obfuscation of Maine statutes and of the DEP's rules and procedures in furtherance of its strategic attempts to fatally delay the Project should be rejected and the Board should affirm the Commissioner's Minor Revision Order without delay.

[15] The purpose of a hearing is to develop the record with additional technical evidence, here on the Site Law and NRPA licensing criteria, without which the Board cannot render a decision on the appeal. Where the Board requires no assistance considering any credible conflicting technical evidence regarding a licensing criterion, it simply reviews the existing record or, if appropriate under the criteria for admitting supplemental evidence, admits into the record supplemental evidence and renders a decision after due consideration of such evidence without the assistance of a hearing. There is no reason, and NRCM states no reason, to further develop the record on the Minor Revision Order by holding a hearing. Because there is an adequate record on which the Board can base its decision on the Minor Revision Order, and because NRCM cannot demonstrate that there is sufficient conflicting technical evidence on a licensing criterion to warrant a public hearing, a hearing on the Minor Revision Order is unwarranted and would be a waste of DEP resources. *Concerned Citizens to Save Roxbury v. BEP*, 2011 ME 39, 15 A.3d 1263; *Martha A. Powers Trust v. BEP*, 2011 ME 40, 15 A.3d 1273.

Dated this 30th day of June, 2021.

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