



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0135

To: Commission
From: Michael Dunn, Esq., Political Committee and Lobbyist Registrar
Date: March 10, 2020
Re: Request for Investigation of Say No to NECEC

On January 22, 2020, the Maine Commission on Governmental Ethics and Election Practices (the "Commission") received a request for investigation from Clean Energy Matters, a registered political action committee, alleging that Say No to NECEC should have registered as a political action committee ("PAC") or ballot question committee ("BQC") and has failed to register and file regular reports. Say No to NECEC is a nonprofit corporation opposed to the New England Clean Energy Connect ("NECEC") transmission project. The organization is run by Ms. Sandra Howard, who is also listed as the principal officer on No CMP Corridor, a registered PAC. Say No to NECEC was founded in 2018 and has been engaged in lobbying, grassroots organization, and has raised some money for "seriously exploring putting an initiative on the ballot." Say No to NECEC has made \$16,000 in cash contributions to No CMP Corridor after the Secretary of State approved circulation of the initiative. Say No to NECEC has continued to ask for contributions to support the initiative¹.

LEGAL REQUIREMENTS

Standard for opening a requested investigation

The Election Law authorizes the Commission to receive requests for investigation and to conduct an investigation "if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred."

A person may apply in writing to the commission requesting an investigation as described in subsection 1. The commission shall review

¹ Currently, Say Not to NECEC is soliciting contributions directly for the No CMP Corridor PAC through various Facebook posts.

the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

21-A M.R.S. § 1003(2).

Contributions to a PAC. A “Contribution” is a gift, subscription, loan, advance, or deposit of money or anything of value made to a political action committee. 21-A M.R.S. § 1052(3); ETH – 1.

Contributions to a BQC. The BQC statute specifies that the definitions of contribution and expenditures in 21-A M.R.S. § 1052(3) and (4) apply to BQCs. 21-A M.R.S. § 1056-B(2); ETH – 5. In addition, under subsection 2-A, contribution also includes:

1. Funds that the contributor specified were given in connection with a campaign.
2. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a campaign.
3. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient’s activities regarding a campaign.
4. Funds or transfers from the general treasury of an organization filing a BQC report.

21-A M.R.S. § 1056-B(2-A); ETH – 5.

Definitions of PAC and BQC

Clean Energy Matters argues that Say No to NECEC qualifies as a PAC under the following definition:

A person, including any corporation or association, other than an individual, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500

in a calendar year for that purpose shall register as a PAC within seven (7) days of meeting that threshold.

21-A M.R.S.A. § 1052(5)(A)(4); ETH – 2. Alternatively, Clean Energy Matters argues that Say No to NECEC qualifies as a BQC, which is defined as:

A person, including an individual or organization, not defined as a PAC that receives contributions or makes expenditures more than \$5,000 for the purpose of initiating or influencing a campaign is required to register as a BQC....

21-A M.R.S.A. § 1056-B; ETH – 4.

Commission’s BQC Guidance. If an individuals only financial activity is to make a contribution to a PAC or BQC that will disclose the contribution in a campaign finance report, then the contributor does not have to register with the Commission. ETH – 8-12.

REQUEST FOR INVESTIGATION AND RESPONSE

Request for Investigation by Clean Energy Matters.

In support for its request to investigate, Clean Energy Matters draws your attention to a GoFundMe page established by Say No to NECEC for the purpose of “exploring putting a referendum on the ballot,” which reports having received as much as \$10,864². ETH – 13. The GoFundMe page was established in October 2018 to support a grassroots effort to oppose the NECEC, but the page was updated in August 2019 to raise funds for an exploratory committee to put a referendum on the ballot. ETH – 28-34. According to Clean Energy Matters, funds received by Say No to NECEC through this website resulted in a duty by Say No to NECEC to register as a PAC, once it decided to move forward with the citizen initiative. Clean Energy Matters also notes that during 2019 Say No to NECEC made three contributions to No CMP Corridor PAC:

² This figure likely represents only electronic contributions and would not reflect any additional funds mailed to the PO Box listed on the GoFundMe page.

Date	Amount
9/26/2019	\$5,000
11/1/2019	\$5,000
11/21/2019	\$6,000

ETH – 14.

Response and Additional Information from Say No to NECEC.

On February 18, 2020, the Commission received a response from Say No to NECEC. ETH – 19-23. According to the organization, Say No to NECEC’s primary purpose consists of educating the public concerning the environmental impacts of the NECEC, encouraging Mainers to attend local meetings, engage in lobbying, and appear at various agencies regarding the permitting process. In late July and early August 2019, members of Say No to NECEC began discussing the possibility of a citizen initiative to oppose the corridor project. On August 20, 2019, citizens associated with Say No to NECEC applied to the Secretary of State to begin the citizen initiative process. ETH – 24.

Members of Say No to NECEC formed No CMP Corridor which filed a PAC registration and initial report on September 17, 2019³. No CMP Corridor PAC has an online donation system that does not go through Say No to NECEC. According to the organization, the primary source of income to Say No to NECEC comes from small member donations. Say No to NECEC denies having received contributions specifically to initiate or promote the citizen’s initiative. The organization states that it has expended no funds to promote the initiative, other than the three contributions to No CMP Corridor.

With respect to the GoFundMe website, Say No to NECEC states that it created the page on October 11, 2018 to raise donations for its legal efforts at the Department of Environmental Protection and Land Use Planning Commission. ETH – 21. The law firm of BCM Environmental and Land Law was retained. Apparently, on August 6, 2019, Say No to NECEC modified the GoFundMe website to solicit donations to explore the

³ No formal association exists between the two organizations. ETH – 35.

possibility of initiating a citizen referendum effort. Say No to NECEC says, however, that the funds were used for another purpose: “[t]he funds raised after the [August 6, 2019] post were in fact used to pay legal fees in connection with the permitting proceedings, before DEP and LUPC.” Id.

On March 2, 2020, Say No to NECEC provided supplementary information and argument in response to a request by the Commission staff. ETH – 25-27; 35-36. Say No to NECEC contends that initiating a campaign for a direct initiative cannot include proponents’ exploratory activities prior to when they filed an application and proposed legislation with the Secretary of State, which, in this case, occurred on August 29, 2019. Say No to NECEC argues that the campaign was initiated after the Secretary of State issued petitions to Say No to NECEC on October 18, 2019.

STAFF RECOMMENDATION

The Commission staff recommends that the Commission investigate whether Say No to NECEC qualified as a BQC and failed to register. We recommend against investigating whether the organization qualified as PAC, because Say No to NECEC does not appear to have a major purpose of influencing a Maine election.

To the best of the Commission staff’s recollection, the Commission has never endorsed the idea of an “exploratory phase” of a citizen initiative, during which receipts or expenditures by an organization that eventually initiated the ballot question were not reportable, because the organization was merely exploring whether to proceed with an initiative. The staff accepts, however, that during August 2019 this particular legislative objective (stopping an energy transmission project through legislation that had already obtained some necessary approvals from state and local governmental departments) may have required significant research and consultation by Say No to NECEC before deciding to move forward.

Nevertheless, by August 29, 2019, Say No to NECEC *did* decide to move forward with an initiative and submitted an application to the Maine Secretary of State. The

GoFundMe site includes language suggesting to supporters that their donations would be used in some fashion related to an initiative:

- “We’re seriously exploring putting a referendum on the ballot, so we need your financial help NOW” and
- “We’ve fought in the Legislature, in towns all across the state, and in front of energy and environmental regulators. We’ve won over the Maine people, so we’re taking the next step toward a referendum.” (Emphasis added).

Based on these representations, the Commission may conclude that funds received through the GoFundMe site were in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a campaign. 21-A M.R.S. § 1056-B(2-A)(B). An investigation may reveal sufficient facts from which to conclude Say No to NECEC qualified as a BQC through its receipt of more than \$5,000 in contributions.

Additionally, the Commission staff recommends that the investigation also include some verification that Say No to NECEC did not spend money to promote the initiative, other than its three cash contributions to No CMP Corridor. We also suggest learning about any paid legal activity to draft the proposed resolution, and whether those legal or consulting fees constitute an expenditure by Say No to NECEC to initiate a ballot question or an unreported in-kind contribution to No CMP Corridor⁴. (Page 4 [ETH – 11] of the Commission’s BQC guidance memorandum states that fees to draft legislation submitted to the Secretary of State should be counted as expenditures to initiate a ballot question.)

Thank you for your attention in these matters.

⁴ No CMP Corridor filed an initial campaign finance report showing no financial activity.

21-A M.R.S. § 1052

Current with the First Regular Session, the First Special Session, and Chapter 554 of the Second Regular Session of the 129th Maine Legislature.

Maine Revised Statutes Annotated by LexisNexis® > Title 21-A. Elections (Chs. 1 — 15) > Chapter 13. Campaign Reports and Finances (Subchs. 1 — 5) > Subchapter 4. Reports by Political Action Committees (§§ 1051 — 1063)

§ 1052. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

- 1. Campaign.** “Campaign” means any course of activities to influence the nomination or election of a candidate or to initiate or influence any of the following ballot measures:
 - A.** A people’s veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17;
 - B.** A direct initiative of legislation under the Constitution of Maine, Article IV, Part Third, Section 18;
 - C.** An amendment to the Constitution of Maine under Article X, Section 4;
 - D.** A referendum vote on a measure enacted by the Legislature and expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19;
 - E.** The ratification of the issue of bonds by the State or any agency thereof; and
 - F.** Any county or municipal referendum.

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- 3. Contribution.** “Contribution” includes:
 - A.** A gift, subscription, loan, advance or deposit of money or anything of value made to a political action committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
 - B.** A contract, promise or agreement, expressed or implied whether or not legally enforceable, to make a contribution to a political action committee;
 - C.** Any funds received by a political action committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of initiating or influencing a campaign; or

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a political action committee that is used by the political action committee to initiate or influence a campaign.

...

4-B. Initiate. “Initiate” includes the collection of signatures and related activities to qualify a state or local initiative or referendum for the ballot.

5. Political action committee. The term “political action committee:”

A. Includes:

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization whose purpose is to initiate or influence a campaign;
- (4) Any person, including any corporation or association, other than an individual, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose; and
- (5) Any person, other than an individual, that does not have as its major purpose influencing candidate elections but that receives contributions or makes expenditures aggregating more than \$5,000 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office; and

B. Does not include:

- (1) A candidate or a candidate’s treasurer under section 1013-A, subsection 1;
- (2) A candidate’s authorized political committee under section 1013-A, subsection 1, paragraph B;
- (3) A party committee under section 1013-A, subsection 3; or
- (4) An organization whose only payments of money in the prior 2 years for the purpose of influencing a campaign in this State are contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and that has not raised and accepted any contributions during the calendar year for the purpose of influencing a campaign in this State.

21-A M.R.S. § 1052-A

Current with the First Regular Session, the First Special Session, and Chapter 554 of the Second Regular Session of the 129th Maine Legislature.

Maine Revised Statutes Annotated by LexisNexis® > Title 21-A. Elections (Chs. 1 — 15) > Chapter 13. Campaign Reports and Finances (Subchs. 1 — 5) > Subchapter 4. Reports by Political Action Committees (§§ 1051 — 1063)

§ 1052-A. Registration

A political action committee shall register with the commission and amend its registration as required by this section. A registration is not timely filed unless it contains all the information required in this section.

1. Deadlines to file and amend registrations. A political action committee shall register and file amendments with the commission according to the following schedule.

A. A political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that receives contributions or makes expenditures in the aggregate in excess of \$1,500 and a political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (5) that receives contributions or makes expenditures in the aggregate in excess of \$5,000 for the purpose of influencing the nomination or election of any candidate to political office shall register with the commission within 7 days of exceeding the applicable amount.

B. A committee shall amend the registration within 10 days of a change in the information that committees are required to disclose under this section.

C. A committee shall file an updated registration form between January 1st and March 1st of each year in which a general election is held. The commission may waive the updated registration requirement for a newly registered political action committee or other registered political action committee if the commission determines that the requirement would cause an administrative burden disproportionate to the public benefit of the updated information.

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21-A M.R.S. § 1056-B

Current with the First Regular Session, the First Special Session, and Chapter 554 of the Second Regular Session of the 129th Maine Legislature.

Maine Revised Statutes Annotated by LexisNexis® > Title 21-A. Elections (Chs. 1 — 15) > Chapter 13. Campaign Reports and Finances (Subchs. 1 — 5) > Subchapter 4. Reports by Political Action Committees (§§ 1051 — 1063)

§ 1056-B. Ballot question committees

A person not defined as a political action committee that receives contributions or makes expenditures aggregating in excess of \$5,000 for the purpose of initiating or influencing a campaign shall register as a ballot question committee and file reports with the commission in accordance with this section. For the purposes of this section, “campaign” does not include activities to influence the nomination or election of a candidate. A person whose only payments of money for the purpose of influencing a campaign in this State are contributions to political action committees or ballot question committees registered with the commission or a municipality and who has not raised and accepted any contributions for the purpose of influencing a campaign in this State is not required to register and file campaign finance reports under this section. For the purposes of this section, expenditures include paid staff time spent for the purpose of initiating or influencing a campaign.

1. Filing requirements. A report required by this section must be filed with the commission according to the reporting schedule in section 1059. After completing all financial activity, the committee shall terminate its campaign finance reporting in the same manner provided in section 1061. The committee shall file each report required by this section through an electronic filing system developed by the commission unless granted a waiver under section 1059, subsection 5.

1-A. Ballot question committee registration. A person subject to this section who receives contributions or makes expenditures that exceed \$5,000 shall register with the commission as a ballot question committee within 7 days of receiving those contributions or making those expenditures. A ballot question committee shall have a treasurer and a principal officer. The same individual may not serve in both positions unless the person establishing the ballot question committee is an individual. The ballot question committee when registering shall identify all other individuals who are the primary decision makers and fund-raisers, the person establishing the ballot question committee and the campaign the ballot question committee intends to initiate or influence. The ballot question committee shall amend the registration within 10 days of a change in the information required in this subsection. The commission shall prescribe forms for the registration, which must include the information required by this subsection and any additional information reasonably required for the commission to monitor the activities of the ballot question committee.

2. Content. A report required by this section must contain an itemized account with the date, amount and purpose of each expenditure made for the purpose of initiating or influencing a campaign; an itemized account of contributions received from a single source aggregating in excess of \$50 in any election; the date of each contribution; the date and purpose of each expenditure; the name and address of each contributor, payee or creditor; and the occupation and principal place of business, if any, for any person who has made contributions exceeding \$50 in the aggregate. The filer is required to report only those contributions made to the filer for the purpose of initiating or influencing a campaign and only those expenditures made for those purposes. The definitions of “contribution” and “expenditure” in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

2-A. Contributions. For the purposes of this section, “contribution” includes, but is not limited to:

- A.** Funds that the contributor specified were given in connection with a campaign;
- B.** Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a campaign;
- C.** Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient’s activities regarding a campaign; and
- D.** Funds or transfers from the general treasury of an organization filing a ballot question report.

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21-A M.R.S. § 1062-A

Current with the First Regular Session, the First Special Session, and Chapter 554 of the Second Regular Session of the 129th Maine Legislature.

Maine Revised Statutes Annotated by LexisNexis® > Title 21-A. Elections (Chs. 1 — 15) > Chapter 13. Campaign Reports and Finances (Subchs. 1 — 5) > Subchapter 4. Reports by Political Action Committees (§§ 1051 — 1063)

§ 1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1052-A or 1053-B or a ballot question committee required to register under section 1056-B that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$ 2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B. An error by the commission staff; or
- C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service.

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 2%;
- B. For the 2nd violation, 4%; and

C. For the 3rd and subsequent violations, 6%.

Any penalty of less than \$ 10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.



Guidance on Reporting as a Ballot Question Committee (effective June 30, 2008)

What is a ballot question committee?

Most organizations that raise or spend money to influence a ballot question in Maine form a political action committee (PAC) for that purpose, and file regular PAC reports with the Commission. Some advocacy, charitable, or other organizations do not qualify as PACs under the Election Law, but they are interested in raising and spending money to influence a ballot question. In 2000, the Maine Legislature enacted 21-A M.R.S.A. § 1056-B to create a reporting requirement for these non-PAC organizations. The Election Law designates these organizations as “ballot question committees” (BQCs) and they are required to register with the Commission. Under these requirements,

[a]ny person not defined as a political action committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee or ballot question committee, aggregating in excess of \$5,000 for the purpose of initiating or influencing a campaign ... shall register as a ballot question committee and file reports with the commission in accordance with this section.

The complete language of 21-A M.R.S.A. § 1056-B and the definition of “campaign” attached to this memo.

Does the requirement apply only to individuals?

No. Under Maine Election law, the term “person” includes individuals, committees, firms, partnerships, corporations, associations, or organizations.

When does a ballot question committee have to register with the Commission?

Within seven days of receiving contributions or making expenditures to initiate or influence a campaign that exceed \$5,000, a ballot question committee must register with the Commission.

How does a ballot question committee register with the Commission and file financial reports?

The committee must register and file the initial campaign finance report using the Commission's e-filing website. The committee may also use the Commission's paper forms available for download on the Commission's website. After registering, the committee must file all other campaign finance reports electronically.

What contributions must be reported by a ballot question committee?

Section 1056-B covers "contributions [received] for the purpose of initiating or influencing a [ballot question]" This includes:

- funds that the contributor specified were given in connection with a ballot question;
- funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a ballot question;
- funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question; and
- funds or transfers from the general treasury of an organization filing a ballot question report.

Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used to support an organization's general activities, rather than activities relating to a ballot question, do not need to be reported.

A ballot question committee must report but is not required to itemize contributions from a single source that aggregate \$50 or less.

What expenditures must be reported by a ballot question committee?

Section 1056-B covers expenditures for communications and activities made "for the purpose of initiating or influencing a [ballot question]." The Commission interprets this to include communications and activities which expressly advocate for or against a ballot question or which clearly identify a ballot question by apparent and unambiguous reference and are susceptible of no reasonable interpretation other than to promote or oppose the ballot question. Expenditures to be reported include:

- expenditures for communications to voters for the purpose of promoting or opposing a ballot question, including advertising on television, radio, and print media; literature that is mailed or distributed by hand to voters; automated

telephone calls and scripted calls from live callers; signs, bumper stickers, and other forms of outdoor advertising;

- staff time promoting or opposing the ballot question at public or press events;
- staff time canvassing (conducting door-to-door visits to) voters;
- travel expenses paid to employees or volunteers who are conducting activities to promote or oppose a ballot question;
- staff time preparing presentations, testimony, letters to the editor, opinion pieces, articles for publication, or press releases to promote or oppose a ballot question;
- research or analysis, including written reports and legal opinions, where the organization knows or reasonably should know that the results will be used to promote or oppose a ballot question and where the results are used for that purpose; and
- expenditures to distribute research or technical analysis regarding a ballot question for the purpose of encouraging voters to vote yes, or no, on the question.

This list is not intended to be exhaustive and is similar to the types of expenditures reported by political action committees to promote or defeat a ballot question.

What expenditures are not covered by § 1056-B?

The Commission interprets § 1056-B as excluding expenditures for communications or activities that do not clearly identify a ballot question by apparent and unambiguous reference. In addition, expenditures made merely to educate voters or others about a ballot question in a neutral way are not covered by § 1056-B, even if a ballot question is clearly identified. These would include expenditures for:

- hosting a meeting at which advocates or members of the public are invited to present their views on the ballot question, provided that the sponsors of the event make reasonable efforts to ensure that the forum is balanced;
- distributing news stories, commentary, or editorials concerning a ballot question through the facilities of a broadcasting station, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by persons otherwise engaged in other advocacy activities to promote or oppose the ballot question; and
- research or analysis concerning a ballot question paid by an entity which is not otherwise participating in the ballot question campaign, provided that the

research or analysis does not clearly express support for or opposition to the ballot question or urge others to vote for or against the ballot question.

Do “expenditures [made] ... for the purpose of initiating ... a [ballot question]” include payments to staff or other expenses incurred in drafting legislation intended as a direct initiative?

Yes. If an organization pays its employees (or incurs other expenses) to draft legislation that the organization intends will be submitted to the Secretary of State as a direct initiative (even if submitted by a different organization or individuals), those expenses should be counted as expenditures made to initiate a ballot question.

What about expenditures to circulate ballot question petitions to collect signatures, and other expenses of advocates for and against a ballot question during the signature-gathering phase?

In 2006, the Legislature amended the term “expenditure” to clarify that payments of money to collect signatures for a ballot question must be reported. The Commission interprets the “expenditures [made] ... for the purpose of ... influencing” includes payments made by opponents of the ballot question during the time period in which proponents may gather petition signatures.

Are donors required to register and file reports as a BQC?

If an individual or organization makes contributions to a PAC or BQC, those contributions do not count toward the threshold of making expenditures that total more than \$5,000 to initiate or influence a campaign. Consequently, if an individual’s or organization’s only financial activity to initiate or influence a ballot question is to make a contribution to a PAC or BQC, that individual or organization would not need to register and file campaign finance reports as a BQC. That is to say, if an individual or organization uses their own funds to make the contribution, the contribution is not counted towards the \$5,000 threshold.

What if an individual or organization raises money to give to a PAC or BQC?

If an individual or organization receives funds for the purpose of influencing a ballot question, and gives those funds to a PAC or BQC, the funds received by the individual or organization count towards the \$5,000 threshold. For example, if a trade association solicits funds from its members in order to make a contribution to a PAC or BQC involved in a ballot question, the trade association may have to register as a ballot question committee if it raised more than \$5,000. It is not the contribution to the PAC or BQC that triggers the registration requirement; it is the fund-raising activity by the trade association that triggers it.

What if an organization contributes or transfers funds to another organization which is not a PAC or BQC?

A contribution or transfer of funds from one organization to another organization for the purpose of influencing a ballot question counts towards the \$5,000 threshold as an expenditure made by the first organization. The other organization may also have to register as a BQC.

What if an organization donates the time of its paid employees to a PAC or BQC to influence a ballot question or makes payments to vendors for goods or services to influence a ballot question in coordination with a PAC or BQC?

Donating paid staff to a PAC or BQC, and coordinating expenditures with a PAC or BQC are in-kind contributions to the PAC or BQC. They do not count toward the \$5,000 expenditure threshold that would trigger filing of a § 1056-B report by the donor; however, the PAC or BQC must report them as in-kind contributions.

An organization's expenditures to influence a ballot question may be considered an in-kind contribution to a PAC or BQC only if they are coordinated with the PAC or BQC or are accepted by a PAC or BQC. Expenditures to influence a ballot question made independently of the PAC or BQC should not be considered contributions to the PAC or BQC and would count toward the \$5,000 threshold.

Guidance to PACs and Contributors on the Reporting of In-Kind Contributions

Some PACs and BQCs involved in ballot question campaigns have reported receiving significant in-kind contributions from other organizations, but provided little detail regarding the goods and services they received. PACs or BQCs must provide more detail about large in-kind contributions they have received. For example, if a PAC or BQC reports that it received significant paid staff time from another organization, it should include a description of those staff activities and the number of hours of staff time that were contributed. A PAC's or BQC's reporting of coordinated spending made by a contributor should include a brief description of the goods and services that were purchased and their value. Contributed staff and coordinated expenditures should not be lumped together as a single contribution for the reporting period, but should be itemized as separate contributions.

Other Guidance

If you have any questions, please contact the Commission's Political Committee and Lobbyist Registrar at 287-4179 or ethics@maine.gov.

Adopted by the Commission on July 27, 2008; updated the Commission staff on May 22, 2017 to reflect statutory changes in 2011 and 2016.

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Received

JAN 22 2020

Maine Ethics Commission

January 22, 2020

Jonathan Wayne
Executive Director
Maine Ethics Commission
Augusta, ME

Dear Mr. Wayne:

On behalf of Clean Energy Matters, I am writing to request that the Commission undertake an investigation into the activities of a group operating under the name 'Say No to NECEC'. We believe this entity, like 'Stop the Corridor', was obligated to file as a political action committee pursuant to M.R.S. 21-A § 1004 (4) on or before November 7, 2019. This statutory provision requires a political action committee to be properly registered with the Commission within seven days after the minimum contribution or expenditure levels set forth in 21-A MRSA §1052-A have been met.

The grounds for this investigation are similar to those upon which we asked for an investigation of 'Stop the Corridor' in our January 17, 2020 letter. A more detailed explanation of the financial and campaign activity of 'Say No to NECEC' is set forth below.

'Say No to NECEC' is registered as a public benefit corporation with the Secretary of State. The organization is run by Sandi Howard, a New Hampshire resident who is employed at Keane State College. Notably, Sandi Howard is also listed as the 'principal officer' on 'No CMP Corridor' and was also one of the six individuals who signed the document submitted to the Secretary of State to being the citizens' initiative.

'Say No to NECEC' was founded in 2018 and claims to have 9,000 members. It describes itself as "grassroots non-profit organization" that is an "environmental, education and advocacy group," and claims to be "member-funded." It spent \$29,400 in lobbying expenses in 2019 supporting legislation adverse to the clean energy transmission line. It also created a GoFundMe page for the expressed purpose of "seriously exploring putting a referendum on the ballot;" that effort appeared to raise \$10,864. The page stated that the exploratory committee would "fund legal research," help "understand the political landscape in the state," "support research into what it will take to build a robust signature gathering effort," and "fund research into what it will take to transition our current structure and membership into a political machine that can take on powerful corporate interests." The page also stated that the group was "going to determine the viability of our organization through our ability to fundraise for this effort."

While neither of the aforementioned activities would require this organization to file as a political action committee under Maine law, that obligation changed on October 18, 2019 when the campaign to put a referendum on the ballot began.

The third and fourth quarter PAC filings made by 'No CMP Corridor' identify \$16,000 in cash contributions from 'Say No to NECEC.' 'Say No to NECEC' made a \$5,000 contribution on September 26, 2019, a \$5,000 contribution on November 1, 2019 and a \$6,000 contribution on November 21, 2019. All of these contributions were made after the opponents of the renewable energy transmission line had filed a petition with the Secretary of State to collect signatures for a citizens' initiative. Nevertheless, 'Say No to NECEC' continued to represent to its would be donors (or regulators) that donations made to the group "go entirely to our legal effort at the Maine DEP and LUPC."

Even as they continued to contribute to a registered PAC engaged in this campaign, 'Say No to NECEC' continued to ask for contributions and told donors that those contributions were tax deductible. Additionally, the organization is actively involved in the petition gathering process. The 'Say No to NECEC' Facebook page has repeatedly advertised locations of petition signing events and has made repeated appeals for people to sign petitions. Most significantly, the group has made appeals for people to transport petitions to various towns for certification by the town registrar. The website, if not the entity itself, is an central part of the broader syndicate to put the measure on the ballot.

Among the three specific statutory definitions of a political action committee under Maine election law is the following:

Any person, including any corporation or association, other than an individual, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose; 21-A MRS § 1052 (5)(A)(4).

Notably, none of the exceptions to the definition set forth in 21-A MRS § 1052 (5)(B) apply. Moreover, 21-A MRSA § 1004 (3) of Maine election law prohibits a person from making a contribution in the name of another.

Pursuant to the Commission's authority under 21-A MRSA § 1003, we request that the Commission undertake an investigation into the political activities and financial backing of 'Say No to NECEC.'¹ The filing from 'No CMP Corridor' along with the additional facts presented above establishes sufficient grounds that violations of 21-A MRS §§ 1004 (3) and (4) and have occurred.

¹ Such an investigation would likely complement and dovetail with an investigation of 'Stop the Corridor' as requested in our January 17, 2020 letter.

Please advise at your earliest convenience as to your staff's determination of the appropriateness of a further investigation. If your staff or the Commission need any further supporting documentation or information pursuant to this request, please do not hesitate to let me know. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Newell A. Augur', written in a cursive style.

Newell A. Augur
Counsel for Clean Energy Matters



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0135

February 4, 2020

James T. Kilbreth, Esq. (Sent via USPS and E-mail)
Drummond Woodsum
84 Marginal Way, Suite 600
Portland, ME 04101-2480

Re: Request for Investigation – Say No to NECEC

Dear Mr. Kilbreth:

The Maine Commission on Governmental Ethics and Election Practices received the enclosed request by Clean Energy Matters to investigate Say No to NECEC. Clean Energy Matters contends that Say No to NECEC should have registered with the Commission as a political action committee (“PAC”) because of its activities to promote a citizen initiative rejecting the transmission line project proposed by Central Maine Power. This letter is to provide Say No to NECEC with an opportunity to respond to the request for investigation and to provide any factual information or legal argument that it believes is relevant.

Commission’s Decision Whether to Investigate

The Commission will consider whether to conduct an investigation or take any other action in this matter at its next public meeting on March 10, 2020. The Commission staff recommends that you and Sandi Howard attend the meeting to respond to the request for investigation and to answer any questions from the Commissioners. The meeting will begin at 9:00 a.m. at the Commission’s office, 45 Memorial Circle in Augusta.

Relevant Law

Standard for Initiating an Investigation. The Commission is required to review every request to investigate an alleged violation of campaign finance law and to conduct an “investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.” (21-A M.R.S.A. § 1003(2)).

Definitions of PAC and BQC. Clean Energy Matters argues that Say No to NECEC qualifies as a PAC under the following definition:

A person, including any corporation or association, other than an individual, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose shall register as a PAC within seven (7) days of meeting that threshold.

(21-A M.R.S.A. § 1052(5)(A)(4)). The Commission staff will recommend that the Commission also consider whether Say No to NECEC qualifies as a ballot questions committee (“BQC”), which is defined as:

A person, including an individual or organization, not defined as a PAC that receives contributions or makes expenditures more than \$5,000 for the purpose of initiating or influencing a campaign is required to register as a BQC....

(21-A M.R.S.A. § 1056-B).

Contributions to a BQC. The BQC statute specifies that the definitions of contribution and expenditures in 21-A M.R.S.A. §§ 1052(3) and (4) apply to BQCs. (21-A M.R.S.A. § 1056-B(2)). In addition, under subsection 2-A, the term “contribution” also includes:

1. Funds that the contributor specified were given in connection with a campaign.
2. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a campaign.
3. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient’s activities regarding a campaign.
4. Funds or transfers from the general treasury of an organization filing a BQC report.

(21-A M.R.S.A. § 1056-B(2-A)).

Request for Response

Please submit a written response to the request for investigation by Tuesday, February 18, 2020. You are welcome to submit any factual information or legal argument you

James T. Kilbreth, Esq.
Page 3
February 4, 2020

believe is relevant to the Commission's decision whether to investigate. In addition, the Commission staff recommends addressing the following points:

- What are the major purpose and activities of Say No to NECEC, and its relationship to No CMP Corridor (the PAC)?
- Please describe the sources of income of Say No to NECEC, and how it has conducted fundraising activities.
- Has Say No to NECEC received contributions as defined in 21-A M.R.S.A. § 1056-B(2-A) (*e.g.*, funds provided in response to a solicitation which would lead the contributor to believe that Say No to NECEC would use the funds specifically to initiate or promote the citizen initiative)?
- Have all such contributions been reported by No CMP Corridor?
- When did the Go Fund Me webpage referred to by Clean Energy Matters first begin raising money to explore or promote a citizen initiative?
- Please provide an approximate total of expenditures by Say No to NECEC to promote the citizen initiative. Have all these expenditures been reported by No CMP Corridor?
- Has Say No to NECEC spent funds regarding the proposed transmission line project that it would not characterize as campaign-related (*e.g.*, payments to lobbyists)? If so, please provide the dates, amounts, payees, and purposes for those expenditures?

Thank you for your cooperation with this request. I look forward to receiving your response on or before February 18, 2020. Please let me know if you have any questions.

Sincerely,



Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar

Enclosures

cc: Newell A. Augur, Esq. (w/o encl.)

February 18, 2020

Via Email and U.S. Mail

Michael J. Dunn, Esq.
State of Maine
Commission on Governmental Ethics
And Election Practices
135 State House Station
Augusta, ME 04333-0135

Re: Say No to NECEC

Dear Mr. Dunn:

This is in response to your letter of February 5, 2020, requesting information about Say No to NECEC's activities in connection with the referendum opposing construction of the CMP transmission line through Western Maine. That request stems from a complaint filed by CMP alleging that Say No to NECEC should have registered as a PAC and filed PAC reports. CMP's complaint contains several inaccurate statements and, as you appear to recognize, fails utterly to establish that Say No to NECEC must register as a PAC. Nor does Say No to NECEC qualify as a ballot question committee, as the answers to your questions establish. The following are our responses to your specific questions.

- **What are the major purpose and activities of Say NO to NECEC, and its relationship to the No CMP Corridor (PAC)?**

Say No to NECEC's primary purpose and activities consist of educating the public about the negative environmental and other impacts of large-scale industrial development in western Maine, most specifically NECEC, otherwise known as the CMP corridor. It is a member organization that has been active over the last 18 months sharing research studies, articles, and other information with members about CMP's proposed project through a Facebook page: <https://www.facebook.com/groups/SayNOtoNECEC/>. Say No to NECEC is a 501(c)(3) organization.

Say No to NECEC's principal activities have involved encouraging Mainers to attend meetings related to the CMP corridor held by town select boards, county commissioners, informational meetings, special town meetings, and public hearings related to the CMP corridor. Members are encouraged to attend these meetings and hearings through the Facebook page. These efforts were all undertaken prior to initiation of the referendum and resulted in over 25 towns rescinding support or voting to oppose the CMP corridor, as indicated below:

Opposed

- Alna (select board)
- Anson (98-12)
- *Caratunk (select board)*
- Chesterville (105-5)
- Dennistown (11-0)
- Durham (190-8)
- Eustis (103-4)
- Farmington (262-102)
- Greenville (290-58)
- Industry (select board)
- Jackman (78-11)
- Jay (showing of hands, no more than 5 supporting)
- Livermore Falls (43-5)
- Moose River (24-0)
- Moscow (35-9)
- New Sharon (82-4) & Moratorium vote 101-1
- Pownal (76-27)
- Rome (27-2)
- Starks (42-15)
- The Forks (residents 16-9; tax payers 30-3)
- West Forks (25-7)
- Wilton (162-1) & Moratorium vote 83-4
- Woolwich

Rescinded Support

- Embden
- Wiscasset
- Franklin County Commissioners
- Androscoggin County Commissioners

Moratoriums

- Caratunk
- Wilton
- New Sharon

In addition, Say No to NECEC members have been active in the permitting process before state agencies. Its members have appeared before the PUC, the DEP, and LUPC. They have also appeared before legislative committees. These activities are ongoing.

In late July and early August, discussions among members of Say No to NECEC and others began about the possibility of a citizen initiative to oppose the corridor project. An application to initiate the referendum process was filed on August 29; contrary to CMP's contention, Sandra Howard was not a signatory on that petition (see attached). Recognizing that as a 501(c)(3) it could not function as a PAC or ballot question committee, Say No to NECEC formed No CMP Corridor, which filed a PAC registration and initial report on September 17, 2019. Sandra Howard serves as the director of Say NO to NECEC and as the principal officer of No CMP Corridor. Another Say No to NECEC member, Darryl Wood, serves as the treasurer of No CMP Corridor.

- **Please describe the sources of income of Say NO to NECEC, and how it has conducted fundraising activities.**

The primary source of income comes from small, member donations. On the Facebook page, Say No to NECEC hosts \$5 Fridays fundraisers, its online fundraiser events, and online auctions. Members can mail checks or make an online deposit using PayPal. Online auctions featuring donated goods and services by grassroots members were held in December 2018; February 2019; April 2019; June 2019; and July 2019. Say No to NECEC had two fundraiser events selling t-shirts and water bottles – June 2019 in The Forks and September 2019 in Farmington.

Additionally, on October 11, 2018, Say NO to NECEC created a GoFundMe page to raise funds to help with its legal efforts at the DEP and LUPC; BCM Environmental and Land Law was retained to represent members at those proceedings.

The NO CMP Corridor PAC has a separate online donation system that does not go through Say No to NECEC.

- **Has Say NO to NECEC received contributions as defined in 21-A MRSA 1056-B(2-A) (e.g., funds provided in response to a solicitation which would lead the contributor to believe that Say NO to NECEC would use these funds specifically to initiate or promote the citizen's initiative)?**

No. Say No to NECEC posted a request for funds for an effort to explore the possibility of initiating a citizen referendum effort on August 6, 2019. As the CMP complaint acknowledges, such an exploratory effort does not trigger any registration or reporting requirement. The funds raised after the post were in fact used to pay legal fees in connection with the permitting proceedings, before DEP and LUPC.

- **Have all such contributions been reported by NO CMP Corridor?**

N/A

- **When did the GoFundMe webpage referred to by Clean Energy Matters first begin raising money to explore or promote a citizen's initiative?**

The GoFundMe page was started by Say NO to NECEC beginning in October 2018 when BCM Environmental and Land Law was retained. It had and has had nothing to do with supporting or promoting the ballot question here.

- **Please provide an approximate total of expenditures by Say NO to NECEC to promote the citizen's initiative. Have all of these expenses been reported by NO CMP Corridor?**

Say No to NECEC has expended no funds to promote the referendum. It has, as outlined in NO CMP Corridor's two quarterly filings (January 15, 2020 & October 7, 2019) made three donations to No CMP Corridor totaling \$16,000. The contributions to No CMP Corridor identified in the PAC's filings were made out of general funds raised by the organization as part of its ongoing fundraising.

- **Has Say NO to NECEC spent funds regarding the proposed CMP transmission line project that it would not characterize as campaign-related (e.g. payments to lobbyists)? If so, please provide a general description of those expenditures?**

As noted above, Say No to NECEC has spent funds on legal fees in connection with regulatory proceedings and also, as the CMP complaint notes, on lobbyists. These expenditures far exceed the contributions to No CMP Corridor, were commenced long before there was a proposed citizen initiative, and are ongoing.

For all these reasons, we do not believe Say No to NECEC is either a PAC or a ballot question committee:

A political action committee under Maine law must have as its "major purpose initiating or influencing a campaign." 21-A MRSA § 1052 (5) (A)(4). Here, Say No to NECEC has been engaged in a range of activities unrelated to the referendum for over 18 months and continues to be so engaged.

Similarly, to be a ballot question committee, a person must "receive contributions or make expenditures, *other than by contribution to a political action committee...* for the purpose of initiating or influencing a campaign." 21-A MRSA §1056-B. Although Say No to NECEC has raised funds to challenge the permitting of the project, and to revisit the issue of approval in numerous municipalities, it has raised no funds, nor made any expenditures, to initiate or influence the referendum, *other than by contribution to a political action committee* (No CMP Corridor). As the Commission's guidance on Ballot Question Committees notes, "If your organization's only financial activity is to make a contribution to a PAC or a ballot question committee that will disclose the contribution in a campaign finance report, your organization does not have to register with the Commission."

Accordingly, we urge the staff to recommend, and the Commission to decide, that no investigation is warranted here.

February 14, 2020
Page 5

I would be happy to discuss these issues further at your convenience.

Sincerely,

A handwritten signature in blue ink that reads "James T. Kilbreth". The signature is written in a cursive style with a large initial "J" and "K".

James T. Kilbreth

JTK/sab

Enclosure

cc: Sandra Howard

APPLICATION FOR CITIZEN INITIATIVE

APPLICANT INFORMATION: (List the contact person for the initiative proponents.)

Name of Applicant: Thomas B Savelli

Mailing Address: 60 Applegate Ln

Municipality of Residence: Wilton

Home Phone: 207-645-3420 Work Phone: 207-240-2496 FAX: _____

email: drtom16@hotmail.com

I hereby invoke the citizen initiative procedure provided for by the Constitution of Maine, Article IV, Part Third and governed by Title 21-M.R.S.A. Chapter 11. Attached is a draft of the legislation for consideration under these provisions.

[Signature]
Signature of Applicant

Subscribed and sworn before me on

8/27/19
(Date)

Michelle Dale
(Signature of Notary Public or Agent of the Secretary of State)

Michelle Dale
(Print Name of Notary Public or Agent of the Secretary of State)

Commission expires 9/29/22

SIGNATURED VOTER INFORMATION: (List five voters, other than the applicant, to receive notices of proceedings.) Please list voter's name, as it appears on the voting list, the mailing address, telephone number, (if published), the municipality of legal residence (where registered to vote), and voter's signature.

Theresa Elizabeth York
260 Randall Rd
159 Ramsdell Rd

Phone: 1-207-491-7411

Municipality of Residence: Farmington Me

Signature: [Signature]

Jarryl A. Wood
215 Green Thicket Rd

Phone: 207-491-5983

Municipality of Residence: New Sharon

Signature: [Signature]

Susan Theberge
1050 Franklin Rd

Phone: 207-645-4703

Municipality of Residence: Jay

Signature: [Signature]

2. Matthew Sinclair Wagner
29 Keane Rd

Phone: 1-207-491-2525

Municipality of Residence: Knox, ME

Signature: [Signature]

4. Kimberly Lyman
2017 Brook Hills Rd
207-235-2176 - home

Phone: 617-840 3288 - cell

Municipality of Residence: Carrabassett Valley, ME

Signature: [Signature]



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0135

February 20, 2020

James T. Kilbreth, Esq. (Sent via USPS and E-mail)
Drummond Woodsum
84 Marginal Way, Suite 600
Portland, ME 04101-2480

Re: Request for Investigation – Say No to NECEC

Dear Mr. Kilbreth:

Thank you for your response dated February 18, 2020. Please accept this letter as a request for follow-up information. Please provide your response no later than March 2, 2020. Please provide responses to the following questions:

- Please confirm that Say No to NECEC is not a founding organization of the No CMP Corridor PAC. Based on our conversation yesterday, it is my understanding that the PAC was founded by members of Say No to NECEC, but that the PAC has no affiliation with the organization.
- Please state your legal or factual basis that costs associated with an exploratory committee for a referendum are not expenditures to initiate a campaign. (*See*, 21-A M.R.S. § 1052(1), (4-B).
- On or about August 16, 2019, Say No to NECEC's Go Fund Me page was updated to solicit contributions to support the exploratory committee for a referendum. *See Attached*. Contributions to a ballot question committee are defined as "Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a campaign." 21-A M.R.S. § 1056-B(2-A)(B). Given the above, please state your legal or factual basis why the Go Fund Me page contributions do not count towards the \$5,000 threshold.

James T. Kilbreth, Esq.

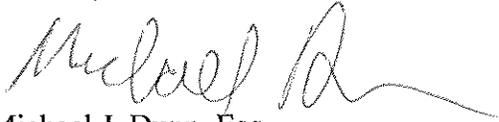
Page 2

February 20, 2020

- Did Say No to NECEC's Go Fund Me page raise more than \$5,000 since it started soliciting contributions to support the exploratory committee?

Please let me know if you have any questions in this matter. I look forward to receiving your response.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael J. Dunn".

Michael J. Dunn, Esq.

Political Committee and Lobbyist Registrar

cc: Newell A. Augur, Esq.



Sandi Howard is with Tom Saviello.

...

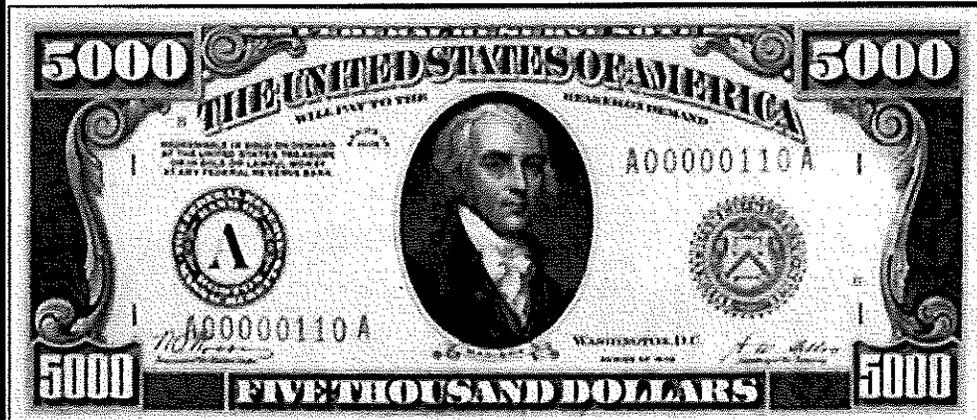
August 16, 2019

CONGRATULATIONS! With the support of our generous members, we met this \$5,000 donation match! We brought in \$10,000 this weekend and are steps closer to having the funds needed to complete our research for the Referendum! Thanks to all who helped out!

Ok, folks - Tom Saviello and I have been successful in securing a \$5,000 donation match for this week's \$5 Friday! We need to surge ahead to push the work on the Referendum Exploratory Committee forward! Comment below with the amount of you'll contribute as a tax-deductible donation.

You can donate in three ways:

- 1). PayPal: <https://PayPal.me/SayNOtoNECEC>
- 2). Send a check payable to "Say NO to NECEC" c/o Sandi Howard, PO Box 73, Caratunk, Maine 04925
- 3). GoFundME: https://www.gofundme.com/say-no-to-necec?fbclid=IwAR3yA0t7MIkVA2oBGeJvLYrnFjrFdREZsDAGP67q7x0YLeT_w84Ak9G42g



👍❤️👁️ 35

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Start a GoFundMe



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Say NO to NECEC

TEAM FUNDRAISER



Carrie Carpenter and Sandi Howard are organizing this fundraiser on behalf of Sandi Howard.

Created October 11, 2018 | Other

Please donate to the Say No to NECEC Referendum Exploratory Committee.

Say No to NECEC is the primary grassroots group fighting CMP's disastrous corridor and today we're opening a new front in this battle.

We're seriously exploring putting a referendum on the ballot, so we need your financial help NOW.

We've fought in the Legislature, in towns all across the state, and in front of energy and environmental regulators. We've won over the Maine people, so we're taking the next step toward a referendum -

but before we can launch a campaign, we have to do the preliminary work that would ensure a successful campaign. We know that navigating these waters will be extremely complex, and we only get one shot at doing it right.

We have a track record of success, so please consider a donation today.

The exploratory committee will:

- Fund legal research. This is a necessary step in helping us navigate this extremely technical process. CMP has an army of lawyers who would love to use every trick to shut us down.
- Help us understand the political landscape in the state and make sure that should we launch a referendum, we'll have the best chance of success.
- Support research into what it will take to build a robust signature gathering effort.
- Fund research into what it will take to transition our current structure and membership into a political machine that can take on powerful corporate interests.

We're going to determine the viability of our organization through our ability to fundraise for this effort. We've set a goal of raising \$25,000 in the next month, so we need your help.

Donate here on the GoFundMe page or please consider writing a check to:

Say No to NECEC

c/o Sandi Howard

P.O. Box 73

Caratunk, ME 04925

Updates (2)

- **AUGUST 5, 2019** by Sandi Howard, Beneficiary

Say No to NECEC, a grassroots, non-profit organization, is an environmental, education, and advocacy group opposing large-scale industrial development in western Maine.

Please consider writing a check to:

Say No to NECEC
c/o Sandi Howard
P.O. Box 73
Caratunk, ME 04925

- **DECEMBER 1, 2018** by Sandi Howard, Beneficiary

ACTION ITEM: Donate to the "Say NO to NECEC" GoFundMe Campaign!

We are raising funds to support the grassroots effort to oppose Central Maine Power's proposed

New England Clean Energy Connect, a 145-mile transmission line... [Read more](#)

Donate

Share

\$10,864 raised of \$25,000 goal

190 donors **2.5K** shares **192** followers

Fundraising team: Sandi Howard (3)



Carrie Carpenter
Organizer
Norridgewock, ME



Sandi Howard
Beneficiary

Contact

Donate now

Share



Diane Friedman
\$36 • 3 mos



Jeffrey Hall
\$20 • 4 mos



Aurora Linnea
\$50 • 5 mos



Ignacio Pessoa
\$25 • 5 mos



Anonymous
\$50 • 5 mos

See all

Community Photos (12)

[See all](#)

Comments (78)



Diane Friedman donated **\$36**
I was not able to collect signatures, but I can feel the excitement and the momentum. We

are without a doubt, defeating this corridor.
Thank you Sandi! You're awesome.

3 mos



Jeffrey Hall donated **\$20**

the power line will spoil the last remnant of woods in the State from Caribou Mt. to Merrill Mt. Smart Mt. Moose Mt. Tumbledown Mt. No. 6 Mt. No. 5 Mt. , and Coburn Mt.all of which are from 3,000 to 3,700 feet in elevation plus all the trout ponds... [Read more](#)

4 mos



Ignacio Pessoa donated **\$25**

I am opposed to building this so-called infrastructure through the Maine wilderness.

5 mos



Amy Partridge-Barber donated **\$50**

I must do more to protect our Maine forest

5 mos



Carol Howard donated **\$50**

I donated because stopping what NECEC will do against Maine is critical!

5 mos



David Whiteside donated **\$10**
i WANT TO PRESERVE UNDEVELOPED
WILDERNESS.

6 mos



Marie Murray donated **\$20**
I care. Where can I get signs?

6 mos



Kimberly Lyman donated **\$100**
CMP doesn't decide, we, the people do!

6 mos



Stephanie Dunn donated **\$20**
Trees not power lines!

6 mos



Eric bowie donated **\$25**
CMP doesn't deserve to be rewarded for
poor service to the people of the great state
of Maine!

6 mos

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March 2, 2020

Via Email and U.S. Mail

Michael J. Dunn, Esq.
State of Maine
Commission on Governmental Ethics
And Election Practices
135 State House Station
Augusta, ME 04333-0135

Re: Say No to NECEC

Dear Mr. Dunn:

This is in response to the questions set out in your letter of February 20, 2020.

- **Please confirm that Say No to NECEC is not a founding organization of the No CMP Corridor PAC. Based on our conversation yesterday, it is my understanding that the PAC was founded by members of Say No to NECEC, but that the PAC has no affiliation with the organization.**

Your understanding is correct.

- **Please state your legal or factual basis that costs associated with an exploratory committee for a referendum are not expenditures to initiate a campaign. (See, 21-A M.R.S. § 1052(1), (4-B).**

21-A M.R.S. § 1052 (1) defines a campaign as a “course of activities ...to initiate... any of the following ballot measures,” including a “direct initiative of legislation.” As the CMP complaint acknowledged, an exploratory committee like the one at issue here by definition is not engaged in a “course of activities... to initiate a campaign” because its purpose is to consider whether or not to initiate a campaign; it does not, merely by considering whether or not to initiate a campaign, actually initiate one. Not only does the definition of “initiate” make this clear—“to cause or facilitate the beginning,” Webster’s Ninth New Collegiate Dictionary—but the statute itself forecloses any suggestion that the activities of an exploratory committee such as the one set up here “initiate” a ballot question. 21-A M.R.S. §901 states in unequivocal terms that “[t]o initiate proceedings for ... the direct initiative of legislation... a voter shall submit a written application to the Department of the Secretary of State on a form designed by the Secretary of State.” The Secretary of State must then determine the form of the petition to be submitted to the voters and only then, after issuance of the petition, when signature collection can begin, does a campaign begin. The statutory definition of “initiate” itself, moreover, makes this clear by specifying that it is only after the filing and issuance of the approved petition by the Secretary of

March 2, 2020

Page 2

State, when signature collection begins, but before the measure has actually qualified for the ballot, that a campaign has been initiated. *Id.* § 1052 (4-B). As a matter of law, accordingly, pre-submission consideration of whether to initiate a campaign does not fall within the statutory definition of “initiate.” And, without belaboring the point, a substantial first amendment vagueness problem would arise were the Commission to attempt to read into the plain meaning of “initiate” some broader view about pre-filing activities being somehow covered by the statute.

Factually, the exploratory committee did exactly what its posts suggested. Prior to submission of the question to the Secretary of State on August 29, 2019, it consulted widely with a variety of stakeholders, environmental groups, legislators, including former Senator Saviello, and others to evaluate whether the resources and expertise could be found to support mounting a campaign, particularly given the resources of the proponents of the corridor. Similarly, various options had to be considered about the language of any question and whether one could be crafted that made sense and could be supported. All that activity could just as easily have resulted in a decision not to proceed. On September 17, 2019, after the application had been filed but before the Secretary of State had approved the petition, members of Say No to NECEC created and registered a PAC to support the petition campaign. All contributions to support the referendum have been made to the PAC since that time. The Secretary of State issued the petition on October 18, 2019, which as CMP has acknowledged, was the initiation of the campaign.

- **On or about August 16, 2019, Say No to NECEC's Go Fund Me page was updated to solicit contributions to support the exploratory committee for a referendum. See Attached. Contributions to a ballot question committee are defined as "Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a campaign." 21-A M.R.S. § 1056-B(2-A)(B). Given the above, please state your legal or factual basis why the Go Fund Me page contributions do not count towards the \$5,000 threshold.**

The response to the question above largely answers this one. As the posts make clear, the contributions were to explore the possibility of initiating a campaign and were not solicitations for the initiation of the campaign, which would involve efforts to collect signatures.

- **Did Say No to NECEC's Go Fund Me page raise more than \$5,000 since it started soliciting contributions to support the exploratory committee?**

Not relevant.

Sincerely,



James T. Kilbreth

JTK/sab

cc: Sandra Howard

Say NO to NECEC

TEAM FUNDRAISER



Carrie Carpenter and Sandi Howard are organizing this fundraiser on behalf of Sandi Howard.

Created October 11, 2018 | Other

Please donate to the Say No to NECEC Referendum Exploratory Committee.

Say No to NECEC is the primary grassroots group fighting CMP's disastrous corridor and today we're opening a new front in this battle.

We're seriously exploring putting a referendum on the ballot, so we need your financial help NOW.

We've fought in the Legislature, in towns all across the state, and in front of energy and environmental regulators. We've won over the Maine people, so we're taking the next step toward a referendum -

\$10,864 raised of \$25,000 goal

190 donors **2.5K** shares **192** followers

Donate now

Share

Diane Friedman **\$36** • 3 mos

Jeffrey Hall **ETH - 37**

but before we can launch a campaign, we have to do the preliminary work that would ensure a successful campaign. We know that navigating these waters will be extremely complex, and we only get one shot at doing it right.

We have a track record of success, so please consider a donation today.

The exploratory committee will:

- Fund legal research. This is a necessary step in helping us navigate this extremely technical process. CMP has an army of lawyers who would love to use every trick to shut us down.
- Help us understand the political landscape in the state and make sure that should we launch a referendum, we'll have the best chance of success.
- Support research into what it will take to build a robust signature gathering effort.
- Fund research into what it will take to transition our current structure and membership into a political machine that can take on powerful corporate interests.

We're going to determine the viability of our organization through our ability to fundraise for this effort. We've set a goal of raising \$25,000 in the next month, so we need your help.

Donate here on the GoFundMe page or please consider writing a check to:



\$20 • 4 mos



Aurora Linnea

\$50 • 5 mos



Ignacio Pessoa

\$25 • 5 mos



Anonymous

\$50 • 5 mos

[See all](#)

Say No to NECEC

c/o Sandi Howard

P.O. Box 73

Caratunk, ME 04925

Updates (2)

- **AUGUST 5, 2019** by Sandi Howard, Beneficiary

Say No to NECEC, a grassroots, non-profit organization, is an environmental, education, and advocacy group opposing large-scale industrial development in western Maine.

Please consider writing a check to:

Sandi Howard

Say No to NECEC

P.O. Box 73

Caratunk, ME 04925

- **DECEMBER 1, 2018** by Sandi Howard, Beneficiary

ACTION ITEM: Donate to the "Say NO to NECEC" GoFundMe Campaign!

We are raising funds to support the grassroots effort to oppose Central Maine Power's proposed

New England Clean Energy Connect, a 145-mile transmission line... [Read more](#)

Donate

Share

Fundraising team: Sandi Howard (3)



Carrie Carpenter
Organizer
Norridgewock, ME



Sandi Howard
Beneficiary

Contact

Community Photos (12)

[See all](#)

Comments (78)



Diane Friedman donated **\$36**

I was not able to collect signatures, but I can feel the excitement and the momentum. We

are without a doubt, defeating this corridor.
Thank you Sandi! You're awesome.

3 mos



Jeffrey Hall donated **\$20**

the power line will spoil the last remnant of woods in the State from Caribou Mt. to Merrill Mt. Smart Mt. Moose Mt. Tumbledown Mt. No. 6 Mt. No. 5 Mt. , and Coburn Mt.all of which are from 3,000 to 3,700 feet in elevation plus all the trout ponds... [Read more](#)

4 mos



Ignacio Pessoa donated **\$25**

I am opposed to building this so-called infrastructure through the Maine wilderness.

5 mos



Amy Partridge-Barber donated **\$50**

I must do more to protect our Maine forest

6 mos



Carol Howard donated **\$50**

I donated because stopping what NECEC will do against Maine is critical!

6 mos



David Whiteside donated **\$10**
i WANT TO PRESERVE UNDEVELOPED
WILDERNESS.

6 mos



Marie Murray donated **\$20**
I care. Where can I get signs?

6 mos



Kimberly Lyman donated **\$100**
CMP doesn't decide, we, the people do!

6 mos



Stephanie Dunn donated **\$20**
Trees not power lines!

6 mos



Eric Bowie donated **\$25**
CMP doesn't deserve to be rewarded for
poor service to the people of the great state
of Maine!

6 mos

[Show more](#)

 [Report fundraiser](#)



#1 FUNDRAISING PLATFORM

People have raised more money on GoFundMe than anywhere else. [Learn more](#)



GOFUNDME GUARANTEE

In the rare case that something isn't right, we will refund your donation. [Learn more](#)



EXPERT ADVICE, 24/7

Contact us with your questions and we'll answer, day or night. [Learn more](#)



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**Data from Say No to NECEC Go Fund Me Page
Collected on 02/19/2020**

Contributor	Amount	Contribution Given		
Diane Friedman	\$ 36.00	3 mos	After Referendum	\$ 7,104.00
Jeffrey Hall	\$ 20.00	4 mos	Before Referendum	\$ 3,760.00
Aurora Linnea	\$ 50.00	5 mos	Total	\$ 10,864.00
Ignacio Pessoa	\$ 25.00	5 mos		
Anonymous	\$ 50.00	5 mos		
Amy Partridge-Barber	\$ 50.00	5 mos		
Carolee Beaulieu	\$ 20.00	5 mos		
Carol Howard	\$ 50.00	5 mos		
Keith Biedrzycki	\$ 25.00	5 mos		
Beth + Tony Tuttle	\$ 50.00	6 mos		
Anonymous	\$ 10.00	6 mos		
David Whiteside	\$ 10.00	6 mos		
Marie Murray	\$ 20.00	6 mos		
Carol Howard	\$ 100.00	6 mos		
Anonymous	\$ 25.00	6 mos		
Kimberly Lyman	\$ 100.00	6 mos		
Stephanie Dunn	\$ 20.00	6 mos		
Jacqueline Davidson	\$ 10.00	6 mos		
Sarah CROSBY	\$ 25.00	6 mos		
Karl MacCabe	\$ 10.00	6 mos		
Eric bowie	\$ 25.00	6 mos		
Kaleb Jacob	\$ 50.00	6 mos		
Anonymous	\$ 26.00	6 mos		
Anonymous	\$ 20.00	6 mos		
Patrick Dillon	\$ 100.00	6 mos		
Stephen Morrison	\$ 10.00	6 mos		
Anonymous	\$ 10.00	6 mos		
Uel Gardner	\$ 15.00	6 mos		
Edwin Buzzell	\$ 25.00	6 mos		
Richard Aishton	\$ 25.00	6 mos		
Anonymous	\$ 25.00	6 mos		
barbara chadwell	\$ 10.00	6 mos		
Everett Leland	\$ 50.00	6 mos		
Art Shea	\$ 20.00	6 mos		
Charlie Grindle	\$ 10.00	6 mos		
Richard Papetti	\$ 25.00	6 mos		
Martin Fox	\$ 50.00	6 mos		
Gordon Lutz	\$ 15.00	6 mos		
Robert Morrison	\$ 50.00	6 mos		
Sue Hatch	\$ 100.00	6 mos		
Diane Zavotsky	\$ 22.00	6 mos		
Theodore Diebold	\$ 50.00	6 mos		
Michelle Henkin	\$ 25.00	6 mos		

Anonymous	\$	25.00	6 mos
Jennifer DiRusso	\$	25.00	6 mos
Jay and Teresa Sanborn	\$	100.00	6 mos
Kevin Healy	\$	20.00	6 mos
John & Pam Mason	\$	25.00	6 mos
Diane McClement	\$	10.00	6 mos
Jeffrey Schuhmacher	\$	20.00	6 mos
Tasha Dolce	\$	20.00	6 mos
Kathy Leighton	\$	20.00	6 mos
Anonymous	\$	10.00	6 mos
Roger Merchant	\$	100.00	6 mos
Kelly Clark	\$	20.00	6 mos
Sue Cassidy	\$	10.00	6 mos
JEFFERY BROWN	\$	20.00	6 mos
Timothy Nolan	\$	20.00	6 mos
David Hewey	\$	10.00	6 mos
Anonymous	\$	20.00	6 mos
Lydia Landesberg	\$	50.00	6 mos
Bruce Pierce	\$	25.00	6 mos
Kevin Lyons	\$	20.00	6 mos
Kevin McAllister	\$	20.00	6 mos
William Smith	\$	100.00	6 mos
Anonymous	\$	20.00	6 mos
matt bodine	\$	20.00	6 mos
Anonymous	\$	50.00	6 mos
Troika Drafts	\$	25.00	6 mos
Donald Lecours	\$	50.00	6 mos
Elizabeth Huntley	\$	15.00	6 mos
Carol Howard	\$	100.00	6 mos
Anonymous	\$	25.00	6 mos
Eben Lovejoy	\$	20.00	6 mos
Penelope Z Andrews	\$	10.00	6 mos
Anonymous	\$	25.00	6 mos
Stephen Morrison	\$	10.00	6 mos
Barbara Farren	\$	10.00	6 mos
Anonymous	\$	10.00	6 mos
Susan Covino Buell	\$	100.00	6 mos
Deb Large	\$	20.00	6 mos
Anonymous	\$	20.00	6 mos
David Hedrick	\$	20.00	6 mos
Carl Metcalf	\$	75.00	6 mos
Kristin Belk	\$	25.00	6 mos
Phil Hamilton	\$	20.00	6 mos
Darwin Davidson	\$	50.00	6 mos
Anonymous	\$	50.00	6 mos
Peggy Spencer	\$	10.00	6 mos
John Hogan	\$	25.00	6 mos

Edith Konesni	\$ 25.00	6 mos
Elizabeth Hamilton	\$ 20.00	6 mos
George Appell	\$ 1,000.00	6 mos
Emma Gierczak	\$ 15.00	6 mos
sheila groonell	\$ 15.00	6 mos
Mike Thompson	\$ 100.00	6 mos
daryl kelley	\$ 50.00	6 mos
Louise Riley	\$ 20.00	6 mos
jay hussey	\$ 90.00	6 mos
Ellie Daniels	\$ 50.00	6 mos
Kellie Teel	\$ 35.00	6 mos
Anonymous	\$ 10.00	6 mos
Christian Carson	\$ 10.00	6 mos
Anne Miller	\$ 10.00	6 mos
Nickolas Bray	\$ 10.00	6 mos
Eben Marsh	\$ 15.00	6 mos
margaret spencer-smith	\$ 10.00	6 mos
Anonymous	\$ 100.00	6 mos
Jennifer MacDonald	\$ 10.00	6 mos
Anonymous	\$ 25.00	6 mos
Emily Stevens	\$ 15.00	6 mos
Frank Engert	\$ 25.00	6 mos
Anonymous	\$ 10.00	6 mos
wayne yeaton	\$ 100.00	6 mos
Joy Vaughan	\$ 45.00	6 mos
Anonymous	\$ 10.00	6 mos
SANDY PARENT	\$ 5.00	6 mos
Greg Dustin	\$ 25.00	6 mos
John Greenlaw	\$ 25.00	6 mos
JEROME MORRIS	\$ 10.00	6 mos
Kathryn Cope	\$ 25.00	6 mos
Lucille Murphy	\$ 100.00	6 mos
Kit Cosgrove	\$ 50.00	6 mos
Melinda Reingold	\$ 10.00	6 mos
Arifa Boehler	\$ 30.00	6 mos
Nancy Jenkins	\$ 10.00	6 mos
Cathryn Marquez	\$ 25.00	6 mos
Barbara Chadwell	\$ 25.00	6 mos
Susan Cochran	\$ 10.00	6 mos
Terry Ashton	\$ 30.00	6 mos
Theresa York	\$ 100.00	6 mos
Tony Sousa Jr	\$ 10.00	6 mos
Diana Burgess	\$ 100.00	6 mos
kyle curtis	\$ 10.00	6 mos
Brenda Holman	\$ 100.00	6 mos
Karen Hutchinson	\$ 25.00	6 mos
Olive Daley	\$ 50.00	6 mos

Laurie Mullens	\$	25.00	6 mos
William Clarke	\$	20.00	6 mos
DALE SMITH	\$	25.00	6 mos
Gregg & Kathy Adams	\$	100.00	6 mos
Gloria Houdlette	\$	50.00	6 mos
Richard Papetti	\$	20.00	6 mos
Anonymous	\$	10.00	6 mos
Anonymous	\$	50.00	6 mos
steve bien	\$	50.00	6 mos
Anonymous	\$	10.00	6 mos
Elizabeth Kerr	\$	30.00	6 mos
susan wilkins	\$	10.00	6 mos
rosalie paul	\$	20.00	6 mos
Laura Ward	\$	100.00	6 mos
Anonymous	\$	54.00	6 mos
Anonymous	\$	10.00	6 mos
Darwin Davidson	\$	50.00	6 mos
Lisa Vnek	\$	20.00	6 mos
Richard Quirk	\$	100.00	6 mos
Robert Sevigny	\$	20.00	6 mos
Carol Cyr	\$	10.00	6 mos
Elizabeth Olbert	\$	20.00	6 mos
Marjorie Spencer	\$	25.00	6 mos
Lorraine Ristano	\$	50.00	6 mos
Marie Beane	\$	50.00	6 mos
Chris Grimm	\$	25.00	6 mos
Stephen Morrison	\$	10.00	6 mos
Jill Keiran	\$	25.00	6 mos
Anonymous	\$	26.00	6 mos
Jeff King	\$	75.00	6 mos
Jeff King	\$	25.00	6 mos
Anonymous	\$	20.00	6 mos
Jennifer Harmon	\$	20.00	6 mos
Richard Weber	\$	100.00	6 mos
Elaine & Scott Davidson	\$	25.00	6 mos
Karen Mayo	\$	25.00	6 mos
Maureen ONeal	\$	10.00	6 mos
William Schmidt	\$	10.00	6 mos
Joshua Smith	\$	10.00	6 mos
Susan Theberge	\$	50.00	6 mos
Laurie Carver	\$	10.00	6 mos
Mossy Ledge Spirits	\$	50.00	6 mos
Kimberly Lyman	\$	50.00	6 mos
Tony and Beth Tuttle	\$	50.00	6 mos
Becky Bartovics	\$	100.00	11 mos
Anonymous	\$	100.00	12 mos

Riverview Cottages	\$	50.00	13 mos
Andrea H	\$	50.00	13 mos
George Appell	\$	100.00	14 mos
Donna Conkling	\$	100.00	14 mos
Martha Goodale	\$	25.00	14 mos
Anonymous	\$	100.00	14 mos
Anonymous	\$	100.00	14 mos
Bruce Plate	\$	200.00	14 mos
Stacey Duncan	\$	250.00	14 mos
Taqqiya Ronco	\$	10.00	14 mos
Kimberly Lyman	\$	100.00	14 mos
Anonymous	\$	25.00	14 mos
William Watkin	\$	50.00	14 mos
Carol Howard	\$	200.00	14 mos
Kasey Lupo	\$	100.00	14 mos
Stacy Frank	\$	200.00	14 mos
John Willard	\$	200.00	14 mos
Rene & Danielle Guay	\$	200.00	14 mos
susan and peter Theberge	\$	200.00	14 mos
Healy Kevin	\$	100.00	14 mos
Duane & Sally Hanson Kwan	\$	200.00	14 mos
Amy Grant	\$	100.00	14 mos
Carrie Carpenter	\$	200.00	14 mos
Beth + Tony Tuttle	\$	100.00	14 mos
Charles Hopkins	\$	200.00	14 mos
Jason Landry	\$	200.00	14 mos
Sandi Howard	\$	200.00	14 mos