



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

MELANIE LOYZIM
COMMISSIONER

May 15, 2023

Gerry Mirabile, Director
NECEC Permitting and Compliance
83 Edison Drive
Augusta, ME 04336

VIA Email Only

Re: NECEC License Suspension

Dear Mr. Mirabile,

As you are aware, the legal challenge, *NECEC Transmission, LLC, et al v. Bureau of Parks and Lands*, has been decided in favor of NECEC Transmission LLC and Avangrid Networks, Inc. The period for a possible appeal expired on May 12, 2023, and none of the parties to the case filed an appeal. Therefore, consistent with the terms of the Commissioner’s November 23, 2021 Suspension Order, the Site Location of Development Law and Natural Resources Protection Act license, #L-27625-26-A-N/L-27625-TG-B-N/L-27625-2C-C-N/L-27625-VP-D-N/L-27625-IW-E-N (License), for the New England Clean Energy Connect Project (the Project) is no longer under suspension.

As required by Section IV (B)(3) of the Suspension Order, the Licensees must provide the Department written notice at least five days prior to the resumption of construction activities. The notice must provide a date and location(s) for the resumption of construction.

The Suspension Order tolled the review of two pending condition compliance applications. Department staff will resume reviewing these applications. One is the condition compliance application for Special Condition #5 (#L-27625-26-AM-C) which required the establishment of a financial guarantee in the amount of \$1,875,000 to fund culvert replacements, and the submission of a plan that establishes the locations of the culverts to be replaced and describes how the funds will be disbursed. Special Condition # 5 required the financial assurance and the plan to be submitted prior to the start of commercial operation. The Department received a condition compliance application on November 16, 2020, along with an Irrevocable Standby Letter of Credit from BNP Paribas Bank. This satisfies the financial guarantee portion of the condition. However, the Department has yet to receive a plan with the locations of culverts to be replaced and a description of how funds will be disbursed. This information must be submitted to the Department for the continuation of the review of the condition compliance application. The final plan must be submitted prior to the start of commercial operation.

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PORTLAND
312 CANCO ROAD
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PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
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The other condition compliance application (#1-27628-26-AD-C) is for compliance with Special Condition #39 of the License, which required the submission of a Conservation Plan to conserve 40,000 acres of land to mitigate for impacts to wildlife habitat from fragmentation caused by Segment 1. The condition was amended by Special Condition #10 of Board Order #L-27625-26-F-Z/ L-27625-TG-G-Z- L-27625-2C-HZ/ L-27625-VP-I-Z/ L-27625-IW-J-Z/ L-27625-26-AB-Z, which increased the number of acres to be conserved from 40,000 to 50,000. As required by the License, the Conservation Plan must:

- Establish as its primary goal the compensation for the fragmenting effect of the transmission line on habitat in the region of Segment 1 and the related edge effect by promoting habitat connectivity and conservation of mature forest areas;
- Identify the area(s), with a focus on large habitat blocks, to be conserved and explain the conservation value of this land; any conservation area must be at least 5,000 acres unless the area is adjacent to existing conserved land or the Licensees must demonstrate that the conservation of any smaller block, based on its location and other characteristics, is uniquely appropriate to further the goals of the Conservation Plan;
- Include a draft forest management plan establishing how, consistent with the primary goal of the Conservation Plan, the conservation area(s) will be managed, including to provide blocks of habitat for species preferring mature forest habitat and wildlife travel corridors along riparian areas and between mature forest habitat;
- Explain the legal interest, such as fee ownership or a working forest conservation easement, that will be acquired in each area; the proposed owner or holder of this interest; and the qualifications of each proposed owner or holder;
- Include preliminary consent from any proposed owner or holder;
- Explain how the Licensees will ensure the availability of stewardship funding (e.g., funding for monitoring and enforcement) needed to support achievement of the goals of the Conservation Plan; and
- Ensure the Department will have third party enforcement rights.

The information submitted to date only includes a general description of the areas you have been searching for parcels to conserve and a general description of the forest management objectives. It does not include specific parcels to be conserved, the holders of any easement, a forest management plan specific to any parcel, or provisions for a stewardship fund. All of this information must be submitted for the Department's review of the condition compliance application. If the condition compliance application is approved, the plan must be fully implemented prior to the start of commercial operation.

Following the written notice required by the Suspension Order, construction may resume while these condition compliance applications are being reviewed, however both have timeframes for certain milestones to be reached, as described in the License.

Letter to Gerry Mirabile re: NECEC License Suspension
May 15, 2023

If you need further assistance, please contact Jim Beyer either by phone at (207) 446-9029 or by email at jim.r.beyer@maine.gov.

Sincerely,

A handwritten signature in blue ink that reads "Melanie Loyzim". The signature is fluid and cursive, with the first name "Melanie" written in a larger, more prominent script than the last name "Loyzim".

Melanie Loyzim, Commissioner
Maine Department of Environmental Protection

Cc Jim Beyer, DEP
Service List for Suspension