

For nearly a century, Maine's government sold out its public lands by allowing paper and timber companies to extract its public lands for virtually no cost. To remedy this, Article IX, Section 23 of the Maine Constitution was enacted in 1997. The Constitution is clear: a $\frac{2}{3}$ vote of both houses of the Maine Legislature is required for reduction or substantial alteration of conservation and recreation lands. Article IX, Section 23 required the Legislature to designate lands for protection under it. Immediately after passage, the Legislature enacted what is now 12 MRSA Section 1846 (1), which designated land that the NECEC project runs over as protected by the amendment. In addition, the Legislature has voted four times (with the latest vote in 2021) to make a finding under Article IX, Section 23 that West Forks Plantation and in Johnson Mountain Township, which the CMP lease runs over, are protected under Article IX, Section 23.

Under the relevant statutory definitions, reduction is "a reduction in the acreage of an individual parcel or lot of designated land under section 598-A." Meanwhile, "substantially altered" means "changed so as to significantly alter physical characteristics in a way that frustrates the essential purposes for which that land is held by the State." BPL failed to apply these definitions to the CMP corridor in a formal process when considering the 2020 lease. While it did use its own mechanism of determining whether it needed to ask for the Legislature's approval during its evaluation 2020 lease, the mechanism remained insufficient, as BPL refused to apply the current statutory uses of the land (namely, good wildlife and land management and a sustained yield of products produced through sound business practices) to its analysis to determine if the CMP corridor would cause a "substantial alteration" that would require legislative consent.

The Maine Revised Statutes require that to revoke a license, the Commissioner must find that: "There has been a change in any condition or circumstance that requires revocation or suspension of a license." This standard has been satisfied, as BPL's leasing process for the 2020 lease was designed to attract as little public scrutiny and judicial review as possible. The Court in *Black v Cutko* stated that it "can find no competent evidence supporting BPL's assertion that it made the requisite public, pre-execution findings that the 2020 lease would not reduce or substantially alter the uses of the lands." By definition, these facts were not widely and publicly known prior to the Superior Court's decision, as the lack of a public process made it nearly impossible for the general public to learn about the environmental harms of the NECEC corridor.

Regardless of its potential benefits or harms, this project needs to be held to the same high standard as every other infrastructure project in this state.

I urge the DEP to suspend the permit issued for the NECEC because CMP/NECEC no longer has Title Right and Interest for the entire line as a result of the Court's finding in Black v Cutko that the Maine Bureau of Public Lands' approval process was statutorily and constitutionally insufficient.