

Public Testimony
NECEC Suspension Hearing
Maine Department of Environmental Protection

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CMP has proposed, in response to the issues raised by the Department in setting up this suspension hearing, that there are at least two alternate routes to complete the transmission corridor should the Johnson Mountain and West Forks public lands be unavailable to them. Both potential alternate routes have substantial issues that have been addressed in today's testimony by the intervenors in this matter, and I won't reiterate them here.

However, I am adding to my original testimony because I feel compelled to note that CMP's rebuttal to the testimony of Jeffrey Reardon (see 2021-10-12 CMP-NECEC Pre-filed Rebuttal Testimony by Thorn C Dickinson, p. 2-3) seems to me to be a remarkable example of seeing a plain statement (in this case, by Assistant Attorney General Lauren E. Parker in her 2018 Memorandum (see 2021-10-12 CMP-NECEC Pre-filed Rebuttal Testimony Exhibit LLC-1-G) and somehow interpreting it to mean the exact opposite of the actual words.

In her memo, Assistant Attorney General Parker lists in great detail the numerous statutory barriers to using the Cold Stream Forest lands for a transmission corridor, with a cascading list of conditions that would need to be met before such a route could be approved, culminating in the highly likely possibility that legislative approval would be required under Maine's Constitution (Article IX Section 23). Moreover, Assistant Attorney General Parker doesn't even address in her memo the federal requirements imposed by the Forest Legacy funding for the Cold Spring Forest (see footnote 1, page 2 of the Parker memo).

The Forest Legacy Program

To further illuminate the difficulties of converting the Cold Stream Forest to a transmission corridor, I have attached copies of the Maine Forest Legacy Assessment of Need (see page 8, asserting that Maine is in compliance with Federal standards on “Linear Nonforest Corridors) and the Federal Forest Legacy Program Implementation Guidelines. Not only are parcels with “Linear Nonforest Corridors” problematic (though not impossible) to enroll in the Forest Legacy Program (p. 31, Implementation Guidelines), all Forest Legacy easements are required to include language limiting such corridors (p. 52, Implementation Guidelines). The guidelines go on to state, “[c]reation of new corridors is ... contrary to the purpose of the FLP.” (p. 76, Implementation Guidelines.). The guidelines emphasize that if a linear nonforest corridor is expanded or a new corridor added on Forest Legacy lands, the loss in forest value must be returned to the National Treasury, or otherwise compensated for (such as with additional forest protection lands).

Though CMP has been unwilling or unable to work their way through the similar (though far less rigorous!) conditions that apply to the Johnson Mountain and West Forks public lands, Mr. Dickinson asserts that CMP could, if needed, implement alternative 2 to build their corridor.

Mr. Dickinson’s interpretation of the likelihood of rerouting the corridor in the Cold Stream Forest in his rebuttal statement at a minimum reflects a profound misunderstanding of the development restrictions on these lands – restrictions that focus specifically on the particular damage to forests caused by “linear nonforest corridors.”

At worst, Mr. Dickinson’s testimony is a bald-faced attempt to bully his way through this hearing in order to be able to argue to the Court or the State Legislature that the NECEC is a project that is “too big to fail,” once all but 1 mile of the corridor is complete.

The first alternative proposed by Mr. Dickinson, routing through lands west of Route 201, though it does not have the public lands challenges, contains numerous other

regulatory challenges for a number of environmental reasons, again clearly described in other's testimony in today's hearing.

All Alternative Routes will take as long, or longer, to implement than resolving the legal challenges raised in Black v. Cutko

It is probable that the legal and environmental challenges CMP will face with either alternative route proposed in their testimony will take far longer than the delay CMP faces if they must stop work now and proceed through the legal and political process to secure their title right and interest to the Johnson Mountain and West Forks lots.

The Department of Environmental Protection should suspend work on the Corridor at this time, in an effort to protect CMP, apparently with funds from ratepayers in Massachusetts, from spending a billion dollars on what could well be a transmission line to the borders of the Johnson Mountain and West Forks public lots. If the transmission line cannot connect, it is a (very expensive) road to nowhere.

CMP could have done the right thing from the beginning. It could have followed the law and waited until after a certificate of public need was obtained before leasing public lands. It could have gone to the Maine legislature instead of seeking a backroom deal with the LePage and Mills administrations to obtain Maine's public lands. It could have routed and built the corridor in ways that do not destroy the public and private lands of Maine's great wild woodlands of the upper Kennebec Valley. It did not do any of those things.

The Department of Environmental Protection must suspend CMPs permit until they meet the basic conditions required for construction of a transmission line – appropriate title right and interest to all portions of the line.

Thank you for considering my testimony.

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