

## York, Marylisa

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**From:** Binney, Allison <[abinney@AKINGUMP.com](mailto:abinney@AKINGUMP.com)>  
**Sent:** Monday, November 22, 2021 8:35 PM  
**To:** DEP, NECEC  
**Subject:** Comments on behalf of the Penobscot Nation related to November 22nd public hearing on NECEC license

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Dear Commissioner and Maine DEP officials,

Please accept these comments on behalf of the Penobscot Nation, whom I represent. I attended the public hearing this evening, which is still ongoing, but did not get an opportunity to present comments on behalf of the Penobscot Nation. The Penobscot Nation would like to officially register its views that the NECEC license should be suspended until the lawsuits regarding the legality of the recent results on Question 1 are completed. Maine voters overwhelmingly supported Question 1. The results of the election indicate that the citizens of Maine believe that the NECEC project “substantially changes” Maine’s public lands, and the Commissioner needs to take the election results into account in this matter. The magnitude of the election results should be a significant factor that Maine DEP considers given your oversight of the public lands. The public has made its views very clear with respect to this project, particularly to segment one of the project. The election results clearly constitute a change in condition or circumstance that requires *at least* suspension of the NECEC license until *at least* the court cases regarding the election results are resolved. No one knows what the results of the court cases will be; thus, the best route for Maine DEP to take is to suspend the license until the court cases are resolved.

To date, there has been no alternative offered by NECEC to bypass Maine’s public lands for this project, and we are not aware of NECEC providing any potential re-routing options that would not violate LD 1295. After the election results, the burden is now on NECEC to provide legal alternatives. The only argument that we have heard against suspension of the license during the public hearing component of today’s proceeding is that it would cause delays to the NECEC project. But, that is nonsensical given that NECEC has already publicly stated that it will voluntarily cease construction until the lawsuits are resolved. Failing to suspend the license will allow NECEC to begin construction at any time, and require Maine’s citizens to bring legal action to try to stop construction that violates the recent election results; construction that the vast majority of voters who participated in the election believe is illegal, and soon may be deemed illegal by a court. Deference at this point in time – after the overwhelming vote of Maine’s citizens – should be given to the public and the election results. Maine DEP should assume the election results are valid, unless a court declares otherwise. At this point, it is better for Maine DEP to suspend the license unless NECEC is able to successfully challenge the legality of the election results.

Lastly, the Penobscot Nation would like to express concern about the significant amount of cutting that occurred by NECEC during the month of October leading up to the November election. This level of activity by NECEC when the polls in October clearly showed that the Maine citizens would approve Question 1 shows that the prudent path for Maine DEP is to protect the interests of the Maine public.

On behalf of the Penobscot Nation, I thank you for considering these comments.

Allison

**Allison C. Binney**

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