

Friends of the Boundary Mountains

August 17, 2021

Commissioner Loyzim
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333

Dear Commissioner Loyzim,

Friends of the Boundary Mountains wishes to express its strong support of NRCM's Request for Stay of Department Order #L-27625-26-A-N/L-27625-TB-B-N/L-276252C-C-N/L-27625-VP-D-N/L-27625-IW-E-N and transfers, amendments and revisions thereto, submitted 8/11/2021.

It is a no-brainer that such a Stay should immediately be imposed on the NECEC project. After all, CMP's contractors are clear-cutting and fragmenting important and precious wildlife habitat under authority of an **unlawful** permit. It is an unlawful permit because it was falsely issued as CMP never held proper Title, Right, or Interest for Segment 1 of the NECEC corridor as required by Chapter 2 Section 11(D) of the Department of Environmental Protection's own Rules. Although intervenors had questioned whether the 2014 lease was statutorily permissible and therefore whether CMP's application met the burden of establishing Title, Right, or Interest for the entirety of the Project, DEP dismissed those concerns without any investigation and refused to add them to the agenda for the public hearing.

The decision of the Maine Superior Court, in *Black v. Cutko*, declaring that the Director of the Bureau of Parks and Lands (BPL) was without authority to enter into the 2014 Lease (that served as title, right or interest for the original permits) and the 2020 Lease (that served as TRI for the revisions and amendments thereto), has now made the illegality of the DEP permit to CMP abundantly clear. Moreover, CMP cannot argue that its lack of TRI poses only a minor deficiency in the 53-mile length of Segment 1 since NRCM's Request for a Stay points out that:

“An applicant must maintain sufficient title, right or interest throughout the entire application processing period.” This expressly includes “sufficient title, right or interest *in all of the property that is proposed for development or use.*” (emphasis added). “This rule applies to all license applications accepted as complete, appeals of Commissioner license decisions to the Board, and petitions to modify, revoke or suspend a license filed on or after the effective date of this rule, or any amendments to this rule.”

Each day that CMP is allowed to continue its illegal clearing and construction causes irreparable injury to Friends of the Boundary Mountains, its membership, and the general public who wants the western Maine woods and mountains left intact. It is a dagger to our hearts.

This is not only because of the immediate clearing and construction of the transmission line, but

due to the long term impacts of loss of critical wildlife habitat, devastation of trout streams, vernal pools, and other natural resources, as well as the permanent fragmentation of the critical ecological link between the forests of the Adirondacks, Vermont and New Hampshire and northern Maine, New Brunswick and the Gaspé.

As testified by ecologist Janet McMahon at the DEP hearing: “The proposed NECEC Project transmission corridor would be the largest fragmenting feature in the Western Maine Mountains region. This region is significant at continental scale for a variety of reasons. It includes more than half of the United States’ largest globally important bird area, which provides crucial habitat for 34 northern woodland songbird species. It provides core habitat for marten, lynx, loon, moose and a host of other iconic Maine animals. Its cold headwater streams and lakes comprise the last stronghold for wild brook trout in the eastern United States.”

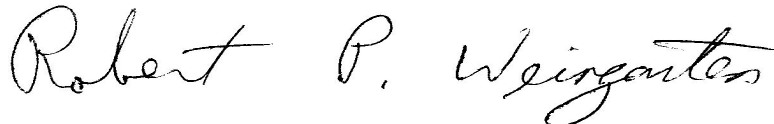
“Its unfragmented forests and complex topography make it a highly resilient landscape in the face of climate change. It lies at the heart of the Northern Appalachian/ Acadian Forest, which is the largest and most intact area of temperate forest in North America, and perhaps the world (Haselton et al. 2014; Riitters et al. 2000). ***Most importantly, the Western Maine Mountains region is the critical ecological link between the forests of the Adirondacks, Vermont and New Hampshire and northern Maine, New Brunswick and the Gaspé.***”

This loss of habitat and fragmentation of the landscape is what Friends of the Boundary Mountains was founded in 1995 to oppose and why CMP’s activities are so injurious to us.

We note that on 8/12/2021 DEP initiated proceedings under Department Rules Chapter 2, § 25(A) and § 27(E) to revoke or suspend CMP’s license due to the Court’s decision in *Black v. Cutko*. However, the process to do so under the aforementioned Rules is time consuming and can extend for several months. Meanwhile, imminent irreparable harm will continue in Segment 1. Therefore, DEP ***must*** issue an immediate Stay of NECEC.

It is long past time for DEP to stop bending over backwards to accommodate and protect CMP. Please show a little concern for the environment by issuing a Stay of the NECEC project.

Sincerely,

A handwritten signature in black ink that reads "Robert P. Weingarten". The signature is written in a cursive, flowing style.

Robert P. Weingarten

cc: Service List