

Testimony of Richard Anderson, Richard Barringer, Robert Gardiner and Lloyd Irland

**LD 471, An Act To Require Legislative Approval for Certain Leases
of Public Lands Comments**

March 18, 2021

Testifying: In Opposition

Senator Dill, Representative O’Neil, Members of the Joint Standing Committee on Agriculture, Conservation and Forestry, our names are Richard “Dick” Anderson, Richard “Dick” Barringer, Robert Gardiner, and Lloyd Irland, and we present testimony in opposition to LD 471 An Act To Require Legislative Approval for Certain Leases of Public Lands.

Each of us has dedicated his career to public service focused on conserving and protecting Maine’s natural resources, while supporting sensible and sustaining economic development for the good of the State, including service in the Maine Department of Conservation (the “Department”) and Maine Bureau of Public Lands (“BPL”).

In our view, LD 471 represents bad policy that will undermine and not promote the management of Maine’s precious public lands; we accordingly support the testimony of Andy Cutko, the current Director of BPL submitted in opposition to this bill.

As drafted, LD 471 would require Legislative approval of any and all leases for transmission lines, roads, bridges, as well as landing strips, pipelines and railroad tracks. In our recollection, no requests have ever been made to the Department to lease lands for airstrips, pipelines or railroads. Leases have been requested for logging roads and transmission lines, which the BPL has granted where appropriate without Legislative approval and consistent with applicable law. If enacted, this bill would require for all such leases, regardless of the extent of the proposed use, that the Legislature approve the lease by a 2/3 vote. The bill, however, provides no standards of any kind to the Legislature by which to make this decision, including how it will weigh the benefits of the permitted uses of lands subject to the lease against any potential harms that might result.

We recognize the Legislature’s important role in overseeing the management of public lands, including especially the Legislature’s responsibility under Article IX, Section 23, of the Maine Constitution to approve any reductions or substantial alternations in the uses of State park land, public lots and other real estate held by the State for conservation or recreational purposes. The Legislature exercised this oversight authority by entrusting the management of public lands to the BPL and by providing the BPL policy guidance on how public lands should be managed. This includes the Legislature’s express authorization to the BPL, within its discretion, to lease public lands for certain uses that benefit the public, including for roads, bridges, and electric transmission and communications facilities.

We believe this was a prudent delegation of authority that minimizes the influences of partisan politics and favoritism and promotes consistency and good land management practices. As

shown in this map <https://bit.ly/2OOepCK>, Maine's public lands are located all across the State, and each has its own characteristics, multiple use values, and history. The beneficiaries of these public lands are *all* the people of Maine, with no subset of Mainers, such as recreational users, holding any special right to block uses of which they personally disapprove. The personnel of the BPL know these public lands well and have the experience, expertise, training, and tools to properly manage them in an expert, open and transparent manner for the benefit of all the people of Maine.

In particular, under 12 M.R.S. § 1847, the BPL's management of public lands must be done in accordance with comprehensive management plans prepared by the Bureau for each large tract of public land. In preparing these plans, the BPL must consult with, and is entitled to the full cooperation of, the Division of Geology, Natural Areas and Coastal Resources, the Department of Inland Fisheries and Wildlife, the Maine Land Use Planning Commission, and all other appropriate state agencies. Each management plan must include an action plan that considers the related systems of silviculture and regeneration of forest resources and provides for outdoor recreation, timber harvesting, watershed protection, and fish and wildlife. The BPL must also provide adequate opportunity for public review and comments on the management and action plans.

LD 471 would supplant BPL's planning, judgment and discretion regarding the appropriate uses of particular tracts of public lands by mandating that all leases for electric transmission facilities, among other uses, must be approved by 2/3 vote of the Legislature. The burdens on the time and resources of BPL from this requirement would be significant, and would contribute nothing to improved land management decision-making.

The deleterious impacts of LD 471 are evident from its potential application to the lease BPL entered with Central Maine Power Company for a 0.9 mile long and 300-foot wide corridor (totaling 32.29 acres) across two tracts of public land in the Upper Kennebec Region for the development of the New England Clean Energy Connect ("NECEC") transmission project. This lease and the use of the tracts for a transmission line that benefits the public, while preserving the timber and recreational uses of the lands, is contemplated by the comprehensive management plan the BPL prepared, after a 2½ year public process, for the public lands in the Upper Kennebec Region. This lease is also consistent with the Legislature's long standing authorization of transmission lines as a permitted use on public lands; in fact, these particular public lands already contain an operating transmission line.

We have carefully reviewed the NECEC and believe it is a worthwhile project that benefits Maine. The project is a vital component of the State's efforts to achieve its climate change goals and policies. Like any large project proposed for development in Maine, the NECEC required multiple permits and approvals from responsible state regulatory agencies. Through these permitting processes, the environmental and land use issues and social benefits of the project were thoroughly vetted by the applicable regulators, in addition to the BPL. For example, the Maine Public Utilities Commission found that the NECEC project is in the public interest; will reduce carbon emissions regionally by 3 to 3.6 million metric tons per year, equivalent to removing 700,000 cars from the road; and will provide numerous other quantifiable benefits to

Maine. Similarly, after an exhaustive multi-year review, the Maine Department of Environmental Protection found that the NECEC has been carefully designed to avoid impacts to the environment and Maine's natural resources; and where impacts could not be avoided, to minimize such impacts and provide appropriate compensation that more than offsets any impacts. This includes the permanent protection of 40,000 acres of land in the vicinity of Segment 1 of the NECEC corridor.

Given the benefits the project provides, we strongly urge the Legislature to support the NECEC, not impede it by changing good and well-established conservation policy for the political end of thwarting this project. The management of Maine's public lands should remain entrusted to the sound judgment of BPL and its sister-State agencies, and not politicized in order to block a particular project, especially one like the NECEC that has been thoroughly vetted by the responsible state regulators and found to meet all permitting requirements and to be in the public interest.

For all these reasons, we respectfully urge the Committee to vote ought not to pass on LD 471.

Respectfully submitted by

Richard Anderson

Commissioner of the Maine Department of Conservation, 1981 - 1987
Executive Director, Maine Audubon Society, 1969 - 1977
Maine Board of Environmental Protection, 1971 - 1973
Wildlife Biologist, Maine Department of IF&W, 1956 – 1969

Richard Barringer

Director, Maine Bureau of Public Lands, 1974-1975
Commissioner of the Maine Department of Conservation, 1975 - 1981
Director, Maine State Planning Office, 1981 - 1986
Founding Director, Muskie School of Public Service, 1989 – 1999

Robert Gardiner

Executive Director, Natural Resources Council of Maine (1978-83)
Director, Maine Bureau of Public Lands (1983-87)
President, Maine Public Broadcasting Corporation (1988-2002)
Chairman, National Wildlife Federation (1994-96)

Lloyd Irland

Director, Maine Bureau of Public Lands, 1979 - 1981
Maine State Economist, 1981 - 1985
Faculty, Yale School of Forestry & Environmental Studies, 2003 – 2010
Faculty Associate, University of Maine School of Forestry

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The attached testimony is offered by Richard Anderson, Richard Barringer, Robert Gardiner and Lloyd Irland.