

## 5. LD 1075 - An Act To Protect Public Lands

I strongly support this much-needed bill, and am grateful to Senator Bennett for introducing it.

Recent revelations associated with the lease of certain public lands by the State of Maine to CMP for its highly controversial and environmentally disruptive proposed power line project without the provision of adequate opportunities for public notice and comment about the decision, highlight the urgent need for this bill. As the Maine Superior Court found last month in its decision in *Black v. Cutco*, "utility leases (including those for electric utility leases) pursuant to 12 M.R.S. § 1852 (4) are not categorically exempt from the application of Article IX, Section 23 of the Maine Constitution."

As Justice Murphy found in her decision (citing plaintiffs), "there is no explicit exemption made for any particular type of property conveyance, such as for an easement or lease. **What matters are two aspects: whether the use significantly alters the land's physical characteristics, and whether the alterations "frustrate" the essential purposes for which the land is held.**"

The facts that this case was litigated, and that a controversy arose specifically around the question of whether a lease of public lands for the purposes of a proposed power line would **"significantly alter the land's physical characteristics, and whether the alterations 'frustrate' the essential purposes for which the land is held"** indicate the need for better statutory clarity on this issue.

As Justice Murphy found, the state may not use the technicality of "lease" as opposed to "sale" to evade Constitutional authority compelling a 2/3 vote of the legislature on decisions regarding proposed activities which would "cause the land to be reduced or substantially altered." **As the question of the definition of what constitutes "reduced or substantially altered" is the key here, this legislation is required to, as its summary states, "establish an objective evaluation process" for such determinations.**

While this may seem technical, in practice it has huge implications for the people of the State of Maine, to provide real transparency on decisions regarding proposed changes in the uses of our state's public lands which would have the effect of reducing or substantially altering them, and to provide the people of the State, through our elected representatives in the Legislature, to weigh in on uses of our public lands, as is required by Article IX, Section 23 of the Maine Constitution.

Janet Lynch  
Pownal, Maine, representing myself

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[Highlighted pdf copy also attached]

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