

Via Email and Federal Express

May 3, 2022

Matthew Pollack, Esq.
Clerk of the Law Court
Maine Supreme Judicial Court
205 Newbury Street, Room 139
Portland, ME 04101

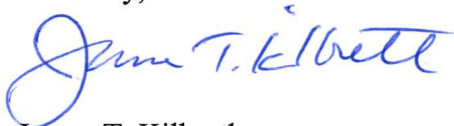
RE: ***Black v. Cutko***
Docket No. BCD-21-257

Dear Mr. Pollack:

On behalf of Appellees/Cross-Appellants Russell Black, *et al.*, I write to provide the Court with supplemental authority that was not available prior to the close of briefing in the above-captioned action. In that briefing, Director Cutko and the Bureau, as well as Amicus Curiae, cited to then-pending L.D. 1075, An Act to Protect Public Lands (130th Legis. 2021). *See, e.g.*, Director Cutko's and the Bureau of Parks and Lands' Opposition to Senator Black's Motion to Dismiss All Appeals as Moot at 7, 12; Brief of Amicus Curiae Troy Jackson, *et al.*, at 16-17. L.D. 1075 was enacted on April 23, 2022, P.L. 2022, ch.654, and codified at 12 M.R.S. § 598-C. This statute requires the Bureau to "adopt rules to establish an objective evaluation process for determining if a proposed activity on land . . . would cause the land to be reduced or the uses of the land substantially altered" and includes a requirement for public notice and comment. 12 M.R.S. § 598-C.

A copy of 12 M.R.S. § 598-C is enclosed. Thank you for your attention to this matter.

Sincerely,



James T. Kilbreth

Enclosure

cc: Lauren E. Parker, Esq., AAG (w/enclosure) (Via Email and U.S. Mail)
Nolan L. Reichl, Esq. (w/enclosure) (Via Email and U.S. Mail)

RECD ME SUPREME JUD CT
MAY 4 '22 AM 11:30

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

—
S.P. 343 - L.D. 1075

An Act To Protect Public Lands

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §598-C is enacted to read:

§598-C. Process for determination of reduction or substantially altered use of designated land

The Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands shall adopt rules to establish an objective evaluation process for determining if a proposed activity on land designated under this chapter and under the jurisdiction of the bureau would cause the land to be reduced or the uses of the land to be substantially altered. In adopting the rules, the bureau shall observe the requirements relating to designated lands in the Constitution of Maine, Article IX, Section 23 and ensure proper exercise of the bureau's public trust responsibility. These rules must also include provisions for public notice and comment before authorizing any such activity and for determining the appropriate instrument to be used to authorize that activity, including but not limited to whether an easement, lease, license or other instrument should be used. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.