

**ADMINISTRATIVE RECORD**

**for**

**2020 AMENDED AND RESTATED  
UTILITY CORRIDOR LEASE**

**BETWEEN MAINE DEPARTMENT OF AGRICULTURE  
CONSERVATION AND FORESTRY,  
BUREAU OF PARKS AND LANDS  
AND CENTRAL MAINE POWER COMPANY**

**WEST FORKS PLANTATION AND JOHNSON MOUNTAIN  
TOWNSHIP PUBLIC LANDS UNIT**

**VOLUME III**

**MAINE BUREAU OF PARKS AND LANDS**

**November 18, 2020**

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**2020 AMENDED AND RESTATED  
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**WEST FORKS PLANTATION AND JOHNSON MOUNTAIN TOWNSHIP PUBLIC LANDS UNIT**

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## Cutko, Andy

---

**From:** Eastman, Kathy on behalf of Whitcomb, Walt  
**Sent:** Wednesday, July 9, 2014 8:45 AM  
**To:** Morrison, Tom  
**Subject:** FW: Land Follow Up  
**Attachments:** GoogleEarth\_Image.jpg

-----Original Message-----

From: Woodcock, Patrick C  
Sent: Tuesday, July 01, 2014 9:39 AM  
To: Whitcomb, Walt  
Subject: FW: Land Follow Up

Commissioner Whitcomb,  
This is the parcel that I discussed this morning. I would appreciate you taking a look to see if you could work to accommodate this request.  
Patrick

Patrick C. Woodcock  
Governor's Energy Office – Maine

-----Original Message-----

From: Harrington M, Joel [mailto:Joel.Harrington@cmpco.com]  
Sent: Monday, June 23, 2014 8:20 AM  
To: Woodcock, Patrick C  
Subject: Land Follow Up

Patrick,

Here is the specific parcel we discussed last week.

Joel  
Sent via my BlackBerry mobile device

----- Original Message -----

From: Freye, Kenneth H  
Sent: Thursday, June 19, 2014 06:41 PM  
To: Harrington M, Joel; Dickinson, Thorn  
Cc: Sawyer, William M.  
Subject: Google Earth Image

Joel,  
The parcels are the public lot in Johnson Mountain (State ID 168-150) and the public lot in West Forks Plantation (State ID 205-352). They are the parcels on the attached aerial that are bisected by the purple line, the proposed centerline for the HVDC line. Let me know if you need more information.  
Ken





**From:** [Eastman, Kathy](#) on behalf of [Whitcomb, Walt](#)  
**To:** [Morrison, Tom](#)  
**Subject:** FW: Land Follow Up  
**Date:** Wednesday, July 9, 2014 8:44:39 AM  
**Attachments:** [Google Earth image.jpg](#)

---

-----Original Message-----

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Ken

**From:** [Harrington M. Joel](#)  
**To:** [Woodcock, Patrick C](#); [Whitcomb, Walt](#)  
**Cc:** [Morrison, Tom](#)  
**Subject:** RE: Meeting - Week of the 28th  
**Date:** Friday, July 25, 2014 2:38:30 PM  
**Attachments:** [image.png](#)  
[image.png](#)

---

Attending from CMP/Iberdrola:

Thorn Dickinson, Vice President Business Development, Iberdrola USA  
Eric Stinneford, Vice President Controller, Treasurer, and Clerk, Central Maine Power Company  
Joel Harrington, Manager, Government and Community Relations, Central Maine Power Company  
Bill Sawyer, Manager, Electric System Engineering, Central Maine Power Company



**Joel M. Harrington**  
Government & Community Relations

83 Edison Drive, Augusta, ME 04336  
Telephone 207.629.6034  
Internal 200-2174  
Cell 207.620.0552  
Fax 207.623.5908  
[Joel.Harrington@cmpco.com](mailto:Joel.Harrington@cmpco.com)



In the interest of the environment,  
please print only if necessary and recycle.

---

**From:** Woodcock, Patrick C [mailto:[Patrick.C.Woodcock@maine.gov](mailto:Patrick.C.Woodcock@maine.gov)]  
**Sent:** Tuesday, July 22, 2014 4:06 PM  
**To:** Harrington M, Joel; Whitcomb, Walt  
**Cc:** Morrison, Tom  
**Subject:** RE: Meeting - Week of the 28th

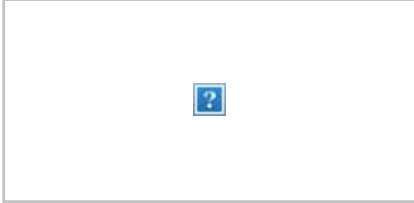
Let's do this in my office.

Patrick C. Woodcock  
Governor's Energy Office – Maine

---

**From:** Harrington M, Joel [mailto:[Joel.Harrington@cmpco.com](mailto:Joel.Harrington@cmpco.com)]  
**Sent:** Tuesday, July 22, 2014 2:24 PM  
**To:** Whitcomb, Walt; Woodcock, Patrick C  
**Cc:** Morrison, Tom  
**Subject:** RE: Meeting - Week of the 28th

3pm works best for CMP. Thank you - Joel



Joel M. Harrington  
Government & Community Relations

83 Edison Drive, Augusta, ME 04336  
Telephone 207.629.6034  
Internal 200-2174  
Cell 207.620.0552  
Fax 207.623.5908  
[Joel.Harrington@cmpco.com](mailto:Joel.Harrington@cmpco.com)



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---

**From:** Eastman, Kathy [<mailto:Kathy.Eastman@maine.gov>] **On Behalf Of** Whitcomb, Walt  
**Sent:** Tuesday, July 22, 2014 2:10 PM  
**To:** Woodcock, Patrick C; Whitcomb, Walt; Harrington M, Joel  
**Cc:** Morrison, Tom  
**Subject:** RE: Meeting - Week of the 28th

After 3:00 works best for Commissioner Whitcomb or before 11:00 as he has other commitments.  
Our office or yours?

Thank you,  
Kathy

---

**From:** Woodcock, Patrick C  
**Sent:** Tuesday, July 22, 2014 10:58 AM  
**To:** Whitcomb, Walt; Joel Harrington ([Joel.harrington@cmpco.com](mailto:Joel.harrington@cmpco.com))  
**Cc:** Morrison, Tom  
**Subject:** RE: Meeting - Week of the 28th

How about Monday afternoon (July 28<sup>th</sup>)?

Patrick C. Woodcock  
Governor's Energy Office – Maine

---

**From:** Eastman, Kathy **On Behalf Of** Whitcomb, Walt  
**Sent:** Tuesday, July 22, 2014 9:28 AM  
**To:** Woodcock, Patrick C; Joel Harrington ([Joel.harrington@cmpco.com](mailto:Joel.harrington@cmpco.com))  
**Cc:** Whitcomb, Walt; Morrison, Tom  
**Subject:** RE: Meeting - Week of the 28th

Pat:

th

Commissioner Whitcomb is not available on Tuesday the 29 or Friday August 1.

Thank you,

*Kathy Eastman*

Assistant to Commissioner Whitcomb  
Department of Agriculture, Conservation & Forestry  
22 State House Station  
Augusta, ME 04333-0022  
207-287-3419

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---

**From:** Woodcock, Patrick C  
**Sent:** Friday, July 18, 2014 5:48 PM  
**To:** Joel Harrington ([Joel.harrington@cmpco.com](mailto:Joel.harrington@cmpco.com))  
**Cc:** Whitcomb, Walt; Morrison, Tom  
**Subject:** RE: Meeting - Week of the 28th

Why don't we plan for 3PM on the 29<sup>th</sup> for this meeting. I can host in my office.

Patrick C. Woodcock  
Governor's Energy Office – Maine

---

**From:** Woodcock, Patrick C  
**Sent:** Friday, July 18, 2014 1:53 PM  
**To:** Joel Harrington ([Joel.harrington@cmpco.com](mailto:Joel.harrington@cmpco.com))  
**Cc:** Whitcomb, Walt; Morrison, Tom  
**Subject:** Meeting - Week of the 28th

Joel,

Would CMP be available for a meeting the week of the 28<sup>th</sup> to discuss the process for right of way issues?

Patrick

Patrick C. Woodcock  
Director  
Governor's Energy Office – Maine  
207-624-7405

**From:** [Harrington, M. Joel](#)  
**To:** [Woodcock, Patrick C](#); [Morrison, Tom](#); [Lavway, David](#)  
**Cc:** [Dickinson, Thorn](#); [Stinneford, Eric N.](#); [Sawyer, William M.](#)  
**Subject:** Thank you and Follow-Up  
**Date:** Tuesday, July 29, 2014 12:33:17 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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Dear Patrick, Tom, and David:

We very much appreciated our discussion yesterday and the preparation ahead of time that allowed us to move forward in the conversation. By way of follow up, Bill Sawyer (cc'd here) and folks from our real estate department will be connecting with Tom and his team soon. In the meantime, if you have any questions, please do not hesitate to contact me.

Regards,  
Joel



Joel M. Harrington  
Government & Community Relations

83 Edison Drive, Augusta, ME 04336  
Telephone 207.629.6034  
Internal 200-2174  
Cell 207.620.0552  
Fax 207.623.5908  
[Joel.Harrington@cmpco.com](mailto:Joel.Harrington@cmpco.com)



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## Rodrigues, David

---

**From:** Freye, Kenneth H <Kenneth.Freye@cmpco.com>  
**Sent:** Friday, August 01, 2014 9:18 AM  
**To:** Morrison, Tom  
**Cc:** Eickenberg, Katherine; Rodrigues, David  
**Subject:** RE: West Forks Plt & Johnson Mt. Public Lots

Tom,  
Thanks, I will be here most of the week of the 11th.  
Ken

---

**From:** Morrison, Tom [mailto:Tom.Morrison@maine.gov]  
**Sent:** Friday, August 01, 2014 9:06 AM  
**To:** Freye, Kenneth H  
**Cc:** Eickenberg, Katherine; Rodrigues, David  
**Subject:** RE: West Forks Plt & Johnson Mt. Public Lots

Ken

Kathy Eickenberg will work with you on this. She is currently away for this week and next. I'll have Kathy get in touch with you when she returns.

Tom

---

**From:** Freye, Kenneth H [mailto:Kenneth.Freye@cmpco.com]  
**Sent:** Tuesday, July 29, 2014 4:18 PM  
**To:** Morrison, Tom  
**Subject:** West Forks Plt & Johnson Mt. Public Lots

Tom,  
I have been asked by CMP to work with you regarding a proposed transmission line crossing of the Public Lots on the common line of West Forks Plantation and Johnson Mountain. Please let me know if you would like to get together to discuss the process or if I should be starting with other folks. Looking forward to working with you again.  
Ken

*Ken Freye*



Agency Office - 79 Old Winthrop Road, Augusta, ME 04332 (207) 621.0600

**Kenneth Freye**

Maine Real Estate License #Br 108067

**Project Manager, Capital Projects, Real Estate Services - CMP Projects**

83 Edison Drive, Augusta, ME 04336

Telephone 207.621.4753

Cell 207.629.7700



**From:** [Eickenberg, Katherine](#)  
**To:** [Morrison, Tom](#); [Freye, Kenneth H](#)  
**Cc:** [Rodrigues, David](#); [Jane Surran Pyne \(jsp@pyne170.com\)](mailto:jsp@pyne170.com)  
**Subject:** RE: West Forks Plt & Johnson Mt. Public Lots  
**Date:** Thursday, August 14, 2014 11:19:47 AM  
**Attachments:** [BPL Camp...doc](#)  
[image.png](#)

---

Ken,

Following up on our conversation this morning, here is a template based on a recent negotiation for a 25-year utility lease. This one had restrictions on cutting and herbicide use related to crossing an ecological reserve, which we can revisit here. Otherwise, it may be a good starting point.

***Kathy Eickenberg***

Chief of Planning and Acquisitions  
Bureau of Parks and Lands  
22 State House Station  
Augusta, Maine 04333-0022  
207-287-4911  
[katherine.eickenberg@maine.gov](mailto:katherine.eickenberg@maine.gov)

---

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**Sent:** Friday, August 01, 2014 9:06 AM  
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**Cc:** Eickenberg, Katherine; Rodrigues, David  
**Subject:** RE: West Forks Plt & Johnson Mt. Public Lots

Ken

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Tom

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**Subject:** West Forks Plt & Johnson Mt. Public Lots

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folks. Looking forward to working with you again.  
Ken

*Ken Freye*

Dirigo Partners Logo\_CMYK\_oct2013



*Agency Office - 79 Old Winthrop Road, Augusta, ME 04332 (207) 621.0600*

Kenneth Freye

*Maine Real Estate License #Br 108067*

Project Manager, Capital Projects, Real Estate Services - CMP Projects

83 Edison Drive, Augusta, ME 04336

Telephone 207.621.4753

Cell 207.629.7700

[kenneth.freye@CMPCO.com](mailto:kenneth.freye@CMPCO.com)

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# TRANSMISSION LINE LEASE

## BETWEEN

### DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

### DIVISION OF PARKS AND PUBLIC LANDS

### And

---

This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the \_\_\_\_\_ Maine Public Reserved Lands in \_\_\_\_\_ **County, Maine**, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a \_\_\_\_\_ (\_\_\_) foot wide by approximately \_\_\_\_\_ mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:

1. Term:

- a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.
- b. Lessor reserves the right to terminate this Lease at any time during the term hereof with cause, pursuant to the provisions contained in paragraph 15 Default.
- c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.
- d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth herein.

2. Rent. Lessee shall pay to the Lessor rental as follows:

An annual rent of \_\_\_\_\_ per year due on the date of execution of this lease and each year thereafter for the initial five years, at which time and each five years thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, , switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity (“Facilities”), all as the Lessee, its successors and assigns, may from time to time require upon, along and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of the Lessor on East Stream Road; to transmit electricity over said wires, cables, or apparatus. The Lessor further grants to said Lessee the right to establish any and all safety regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

4. Quiet Enjoyment. So long as Lessee pays the rent and performs all of its non-monetary obligations and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross \_\_\_\_\_ Road for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said road. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through \_\_\_\_\_ Road at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the \_\_\_\_\_ Road, Lessee must acquire prior written approval from Lessor. Lessee shall also acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises. which approval shall not be unreasonably withheld, delayed, or conditioned.

b. The Lessor expressly reserves the right for itself or its guests, servants or agents to pass and repass over the described Premises and \_\_\_\_\_ Road at any and all times with machinery and equipment necessary for the operation

or conduct of Lessor's uses as it may from time to time exist, provided that: said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least 3 business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. Herbicides and pesticides shall not be used on the Premises. No hazardous or toxic waste substance or material, chemical defoliants, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon.
- d. There shall be no vegetation removal that would result in less than 50% areal coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor, nor cut nor destroy any growth nor make any clearings except Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.
- g. Lessee shall make every reasonable effort to be in conformance with the "Recommended Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler" document, dated January 2013, which a copy is attached to this lease.
- h. Lessee agrees not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and appropriate authority

- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessors' costs, including, but not limited to reasonable attorneys' fees.
- j. No non-forest waste, debris, garbage or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g. wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing; pole setting, wiring) . At the time the construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to BMP standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011.) . Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed access points, temporary trails, inspection and maintenance access, and descriptions of any proposed bridges, temporary or permanent.
- l. Natural Plant Community and Significant Vernal Pool field surveys must be conducted by Lessee or Lessee's designee prior to all construction. Lessee shall send to Lessor a copy of all completed surveys.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. . Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish

Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30 days in which to cure such failure.

7. Liability and Insurance.

a. Lessee shall inform Lessor immediately of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorneys' fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. The Lessee shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollar each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. Upon execution of this Lease, the Lessee shall furnish the Lessor with a certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.

9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities;; said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; and that such use will not interfere with the rights herein conveyed.
11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees to not remove in writing. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.
13. Default.
  - a. The following shall constitute a default under this Lease: (1) Lessee's failure to perform any of its monetary and/or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy/insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien or attachment will be released within a reasonable time not to exceed ninety (90) days; (4) the assignment or sublease of this lease to any third

party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations or ordinances; or (6) Lessee shall abandon the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fee, incurred by reason of such default or termination hereof.

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate.
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorneys' fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.



19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Public Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to \_\_\_\_\_
25. General Provisions:
  - a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
  - c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
Department of Agriculture, Conservation, and Forestry  
Division of Parks and Public Lands

By: \_\_\_\_\_  
Willard R. Harris, Jr., Director

Dated: \_\_\_\_\_, 2013

\_\_\_\_\_  
Witness

Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

## Koyanagi, Gayle

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**From:** Freye, Kenneth H <Kenneth.Freye@cmpco.com>  
**Sent:** Thursday, August 21, 2014 5:24 PM  
**To:** Eickenberg, Katherine; Morrison, Tom  
**Cc:** Rodrigues, David; Jane Surran Pyne (jsp@pyne170.com)  
**Subject:** RE: West Forks Plt & Johnson Mt. Public Lots  
**Attachments:** Johnson\_Mtn\_West\_Forks\_300ft\_Corridor.shx; Johnson\_Mtn\_West\_Forks\_300ft\_Corridor.cpg; Johnson\_Mtn\_West\_Forks\_300ft\_Corridor.sbn; Johnson\_Mtn\_West\_Forks\_300ft\_Corridor.sbx; Johnson\_Mtn\_West\_Forks\_300ft\_Corridor.shp; Johnson\_Mtn\_West\_Forks\_300ft\_Corridor.shp.xml; BPL Sample LEASE (2) (3).docx

Kathy,

Attached are shape files for the proposed transmission line crossing of the public lots in West Forks Plantation and Johnson Mountain Township and CMP's red line of the template lease agreement. The corridor location is based on aerials. Field inspections for wetlands, RTE species, etc. may indicate a better location. The general idea is to cross east of Wilson Hill to avoid Little Wilson Hill Pond and the streams on the west end of the lots. Let me know your thoughts on this location. If it seems reasonable, I can start wetlands assessment. CMP will do a survey for the final location but it may be a while before the project gets to that point. I suggest having an exhibit with the agreed upon location and language stating that a survey substantially conforming to the exhibit will be completed by CMP, recorded and made part of the lease within a specified timeframe.

I ran the lease by our counsel which had a few comments and edits. Probably the most important item is to have a reasonable period to cure any default. Edits pertaining to these items are in 6.m and 13. a & b. The other major area of concern is Item 14. It creates a great deal of legal and financial uncertainty although my assessment is the practical impact is less. Is this mandatory language?

Based on your comment that this lease was developed for an ecologically sensitive area, I made edits to 6.c and 6.f and deleted 6.g. Please let me know if these are show stoppers for you.

Other items:

Rent - CMP does not have any current leases with the State for this type of land that can be used as comparables. There are some good comparables for establishing a fee market value and CMP is willing to make an upfront payment for the 25-year period based on the fee market value which I estimate to be \$1,000 per acre based on the proposed acquisition of the Cold Stream parcel and other land that Plum Creek Timberlands has on the market in the area. CMP would also like the ability to extend the lease in five year increments as provided in Item 1. a.

Use and Access - I did not see any access roads in this area of the public lots so we may be able to delete the language pertaining to roads. I would like to leave it in until we have agreed on a location and we have had a chance to do the field inspections. The lease does not mention public access and you may want to consider having language regarding public use of the leased area. Other than during construction and maintenance, public access, including hunting, is not an issue for CMP. CMP generally posts "Safety Zone" signs around active construction/maintenance sites and generally there are no issues.

Lease Assignment, Sublease and Co-location - the intent of the 300-foot wide corridor is to accommodate both a high voltage direct current line (HVDC) and a lower voltage (probably 115 kV) line or lines, either owned by CMP or a generator(s). CMP needs have assurance that it will have use of the entire corridor that it is leasing.

I will be in the field most of Friday and Monday but would like to get your thoughts on the lease sometime next week. Looking forward to hearing from you.

Ken

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**From:** Eickenberg, Katherine [mailto:Katherine.Eickenberg@maine.gov]  
**Sent:** Thursday, August 14, 2014 11:20 AM  
**To:** Morrison, Tom; Freye, Kenneth H  
**Cc:** Rodrigues, David; Jane Surran Pyne (jsp@pyne170.com)  
**Subject:** RE: West Forks Plt & Johnson Mt. Public Lots

Ken,

Following up on our conversation this morning, here is a template based on a recent negotiation for a 25-year utility lease. This one had restrictions on cutting and herbicide use related to crossing an ecological reserve, which we can revisit here. Otherwise, it may be a good starting point.

***Kathy Eickenberg***

Chief of Planning and Acquisitions  
Bureau of Parks and Lands  
22 State House Station  
Augusta, Maine 04333-0022  
207-287-4911  
[katherine.eickenberg@maine.gov](mailto:katherine.eickenberg@maine.gov)

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**From:** Morrison, Tom  
**Sent:** Friday, August 01, 2014 9:06 AM  
**To:** Freye, Kenneth H  
**Cc:** Eickenberg, Katherine; Rodrigues, David  
**Subject:** RE: West Forks Plt & Johnson Mt. Public Lots

Ken

Kathy Eickenberg will work with you on this. She is currently away for this week and next. I'll have Kathy get in touch with you when she returns.

Tom

---

**From:** Freye, Kenneth H [<mailto:Kenneth.Freye@cmpco.com>]  
**Sent:** Tuesday, July 29, 2014 4:18 PM  
**To:** Morrison, Tom  
**Subject:** West Forks Plt & Johnson Mt. Public Lots

Tom,  
I have been asked by CMP to work with you regarding a proposed transmission line crossing of the Public Lots on the common line of West Forks Plantation and Johnson Mountain. Please let me know if you would like to get together to discuss the process or if I should be starting with other folks. Looking forward to working with you again.  
Ken

*Ken Freye*



Agency Office - 79 Old Winthrop Road, Augusta, ME 04332 (207) 621.0600  
Kenneth Freye  
Maine Real Estate License #Br 108067  
Project Manager, Capital Projects, Real Estate Services - CMP Projects  
83 Edison Drive, Augusta, ME 04336  
Telephone 207.621.4753  
Cell 207.629.7700  
[kenneth.freye@CMPCO.com](mailto:kenneth.freye@CMPCO.com)

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**TRANSMISSION LINE LEASE**

**BETWEEN**

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND  
FORESTRY**

**DIVISION OF PARKS AND PUBLIC LANDS**

**And**

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This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the \_\_\_\_\_ Maine Public Reserved Lands in \_\_\_\_\_ **County, Maine**, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a \_\_\_\_\_ ( ) foot wide by approximately \_\_\_\_\_ mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under to~~ the provisions contained in paragraph 15 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth herein.

2. Rent. Lessee shall pay to the Lessor rental as follows:

~~A one time payment of Thirty-five Thousand Dollars (\$35,000) an annual rent of \_\_\_\_\_ per year due on the date of execution of this lease. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) and each year thereafter for the initial five years, at which time and each five years~~

\_\_\_\_\_ thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of ~~others and of~~ the Lessor on ~~East Stream Road~~ \_\_\_\_\_ Road; to transmit electricity ~~and communication~~ over said wires, cables, or apparatus. The Lessor further grants to said Lessee the right to establish any and all safety ~~and reliability~~ regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the ~~safe and reliable~~ construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

4. Quiet Enjoyment. So long as Lessee pays the rent and performs all of its non-monetary obligations and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross \_\_\_\_\_ Road for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said road. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through \_\_\_\_\_ Road at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the \_\_\_\_\_ Road, Lessee must acquire prior written approval from Lessor. Lessee shall also acquire prior written approval for the construction or use of

any other access location across Lessor's land abutting the Premises, which approval shall not be unreasonably withheld, delayed, or conditioned.

b. The Lessor expressly reserves the right for itself or its guests, servants or agents to pass and repass over the described Premises and \_\_\_\_\_ Road at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as it may from time to time exist, provided that: said uses will comply with the above reference safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least ~~three~~ business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. ~~Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliants,~~ residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Herbicides may only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency.
- d. There shall be no vegetation removal that would result in less than 50% ~~areal~~ aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height of less than 15 feet, nor cut nor destroy any growth nor make any clearings except Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.



- ~~g. Lessee shall make every reasonable effort to be in conformance with the "Recommended Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler" document, dated January 2013, which a copy is attached to this lease.~~
- h. Lessee agrees not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and ~~to the~~ appropriate authorities.
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessors' costs, including, but not limited to reasonable attorneys' fees.
- j. - No non-forest waste, debris, garbage or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g. wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. - Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing; pole setting, wiring)-. At the time ~~the~~ construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to BMP standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011.) . Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed access points, temporary trails, inspection and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community and Significant Vernal Pool field surveys must be conducted by Lessee or Lessee's designee prior to all construction. Lessee shall send to Lessor a copy of all completed surveys.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. ~~Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 90 days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.~~

7. Liability and Insurance.

- a. Lessee shall without unreasonable delay inform Lessor ~~immediately~~ of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.
- b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorneys' fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.
- c. -The Lessee shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine

Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollar each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~ Upon execution of this Lease, the Lessee shall furnish the Lessor with ~~a~~ certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written ~~consent of Lessor,~~ which shall be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, ~~and~~ said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and that~~ such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.
11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing to not to remove in writing it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and

charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

13. Default.

a. The following shall constitute a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~/or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien or attachment will be released within a reasonable time not to exceed ninety (90) days or such other time as is required under any applicable circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations or ordinances; or (6) Lessee shall abandon the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period ~~(is there a cure period for 5 above?)~~ as defined in 6 (m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fee, incurred by reason of such default or termination hereof. Prior to enforcement of any remedy permitted hereby, Lessor shall provide Lessee with written notice of an event or occurrence of default under this section 13 (a)(1) and Lessee shall have a reasonable period as the circumstances of time as the circumstances giving rise to the default dictate to cure said default which period shall not exceed [ ] days; provided that if Lessee has provided Lessor with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the cure period shall be extended as applicable.

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by

Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]

15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorneys' fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.

22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Public Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to \_\_\_\_\_
25. General Provisions:
- a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
  - c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
Department of Agriculture, Conservation, and Forestry  
Division of Parks and Public Lands

By: \_\_\_\_\_  
Willard R. Harris, Jr., Director

Dated: \_\_\_\_\_, 2013

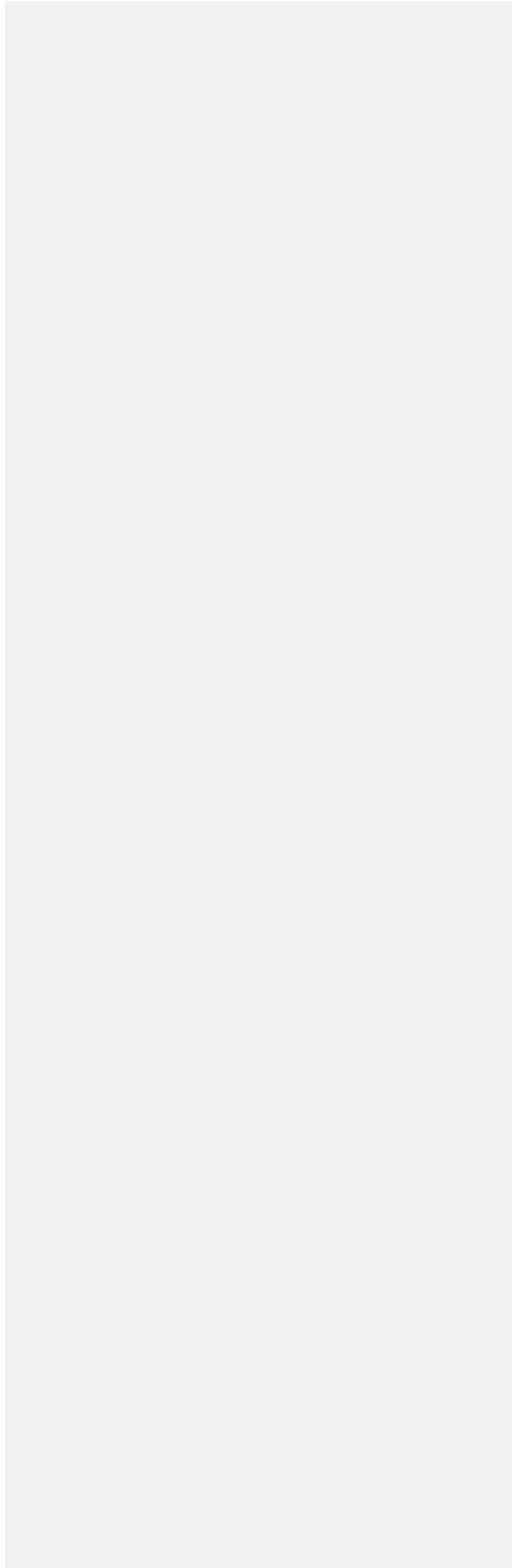
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Witness

Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness



## Considerations for locating a CMP Right of Way across BPL Lands in West Forks Plt and Johnson Mt. Plt

1. Authority to grant ROW across existing public lots (Johnson Mountain Twp Lot and West Forks Plt. Lot):  
BPL can grant a right of way through its Public Reserved Lands through two statutory authorities:

- a. 12 MRSA Section 1852, subsection 4, allows the bureau to lease public reserved lands for utilities rights-of-way for a term not exceeding 25 years; with the consent of the Governor and the Commissioner.
- b. 12 MRSA Section 1851 allows the bureau to execute deeds to convey lands, subject to the approval of the Legislature (by a two-thirds vote pursuant to 12 MRSA Section 598-A).

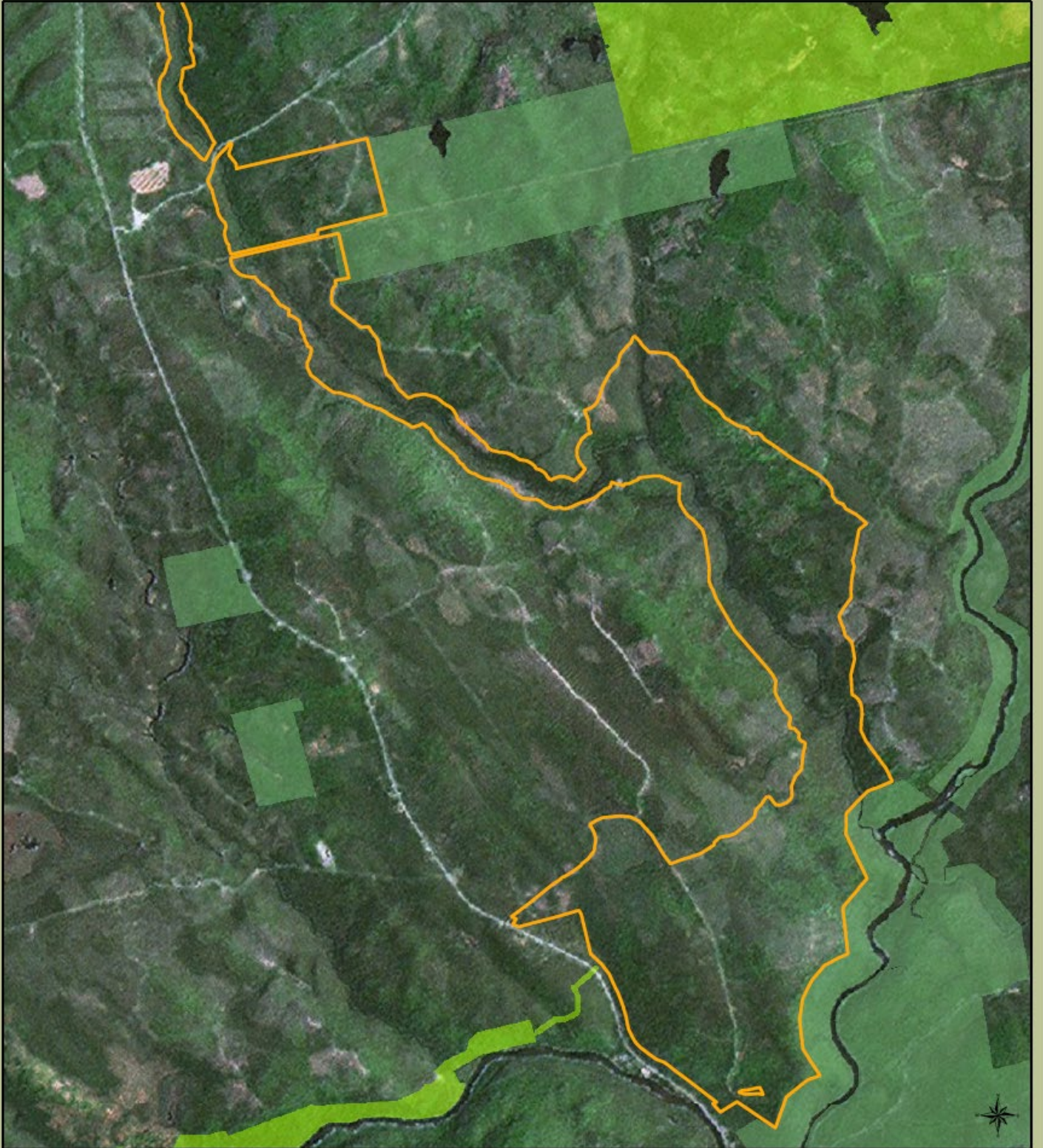
Note on Routing: There is already a lease to CMP for a power line corridor across the northern border of the West Forks Plt. Lot. That corridor extends all the way to Route 201, with an existing crossing of Cold Stream. It appears to be about 100 feet wide at most. The Bureau looked at this as a potential alternative route, and concluded that the net new acreage of ROW across current state ownership would appear to be about the same. Because of impacts related to crossing of Cold Stream, as discussed below, this option was not viewed as preferable to the proposed alignment.




2. Pending Cold Stream Forest Acquisition: The proposed corridor route would cross a portion of a property that is intended for BPL acquisition, with implications for both the routing and options for the conveyance of a right of way or deed. The Cold Stream Forest Project is a Forest Legacy Project which will entail BPL acquisition of lands along Cold Stream and its headwater ponds in order to protect important brook trout and deer habitat. See the attached map. This planned acquisition would occur in 2015. Forest Legacy funds in the amount of \$6 million have been approved for this project, and an additional \$1.5 million is requested from the Land for Maine's Future program, currently in the process of determining the use of voter approved bond for a round of proposals submitted earlier this spring. The Cold Stream Forest Project is LMF's highest ranked project.

Conveyance considerations related to the Cold Stream Forest Acquisition: The proposed route would cross about 0.2 mile of the Cold Stream Forest lands expected to come under state ownership. Once the property is acquired with Forest Legacy and LMF funds, there would be significantly more complication in making a conveyance of the property, or a power line corridor lease. To avoid this, the Bureau proposes to work with Plum Creek, and the Trust for Public Land (which holds a purchase option on the property), to exclude the proposed corridor from the acquisition property.

Routing Considerations: Regarding the routing, additional analysis would be needed, but It does appear that where the proposed corridor crosses Cold Stream near the Capital Road might minimize new clearing needed, reducing potential impacts of loss of shade and warm runoff, as well as visual impacts on the stream corridor. The Bureau would ask that the crossing involve as little width and clearing as possible, for these reasons. The Bureau, TPL and Plum Creek, the present landowner, would need to understand what is needed for this crossing in order to adjust the project accordingly. There was already a small buffer of land excluded from the project around the Capital Road – the question is, how much more is needed?



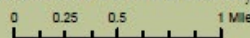


-  Cold Stream Project
-  State Lands
-  Private Conserved Lands

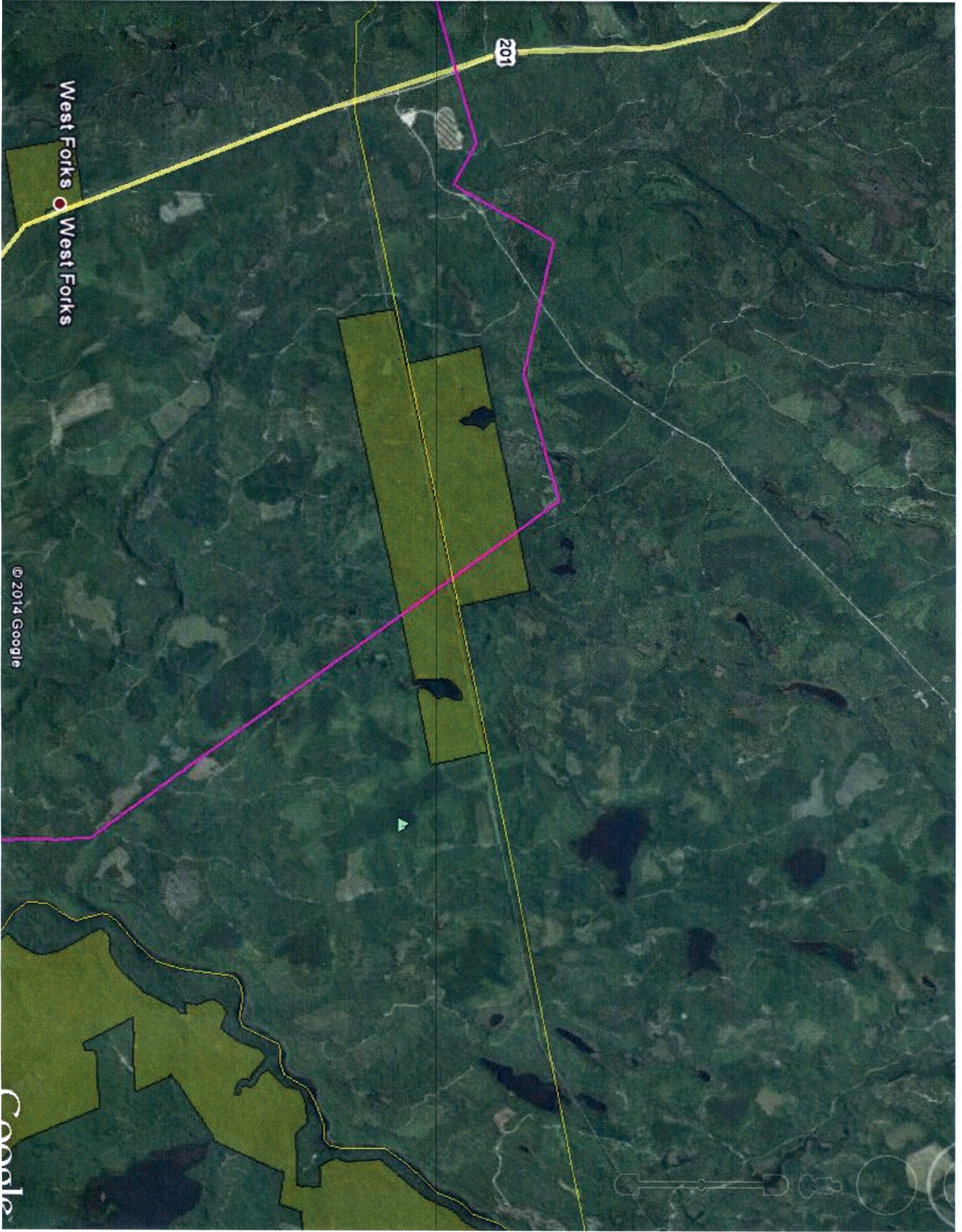
## Cold Stream Project South

Johnson Mountain TWP, Parlin Pond Twp  
Moxie Gore & West Forks Plt, ME

Boundaries are approximate. Created by The Trust for Public Land on 8/1/2013. Information on this map is provided for purposes of discussion and visualization only.









**TRANSMISSION LINE LEASE**

**BETWEEN**

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND  
FORESTRY**

**DIVISION OF PARKS AND PUBLIC LANDS**

**And**

---

This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the \_\_\_\_\_ Maine Public Reserved Lands in \_\_\_\_\_ **County, Maine**, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a \_\_\_\_\_ ( ) foot wide by approximately \_\_\_\_\_ mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under to~~ the provisions contained in paragraph 15 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth herein.

2. Rent. Lessee shall pay to the Lessor rental as follows:

~~A one time payment of Thirty-five Thousand Dollars (\$35,000) per year due on the date of execution of this lease. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) and each year thereafter for the initial five years, at which time and each five years~~

~~thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.~~

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of others and of the Lessor on East Stream Road \_\_\_\_\_ Road; to transmit electricity ~~and communication~~ over said wires, cables, or apparatus. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

**Commented [DAR1]:** Only for CMP communication use as it needed in connection with this utility line communication use is reserved by Lessor.

4. Quiet Enjoyment. So long as Lessee pays the rent and performs all of its non-monetary obligations and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. ~~However, the Lessee shall be allowed to cross \_\_\_\_\_ Road for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said road. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through \_\_\_\_\_ Road at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the \_\_\_\_\_ Road, Lessee must acquire prior written approval from Lessor. Lessee shall also acquire prior written approval for the construction or use of~~

**Commented [KHF2]:** This section of corridor does not appear to be accessed by a road located on the Public Lot

any other access location across Lessor's land abutting the Premises, which approval shall not be unreasonably withheld, delayed, or conditioned.

b. The Lessor expressly reserves the right for itself or its guests, servants or agents to pass and repass over the described Premises and ~~\_\_\_\_\_Road~~ at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as it may from time to time exist, provided that: said uses will comply with the above reference safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least ~~three~~3 business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

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6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. ~~Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliants~~, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Herbicides may only be applied after acquiring written approval from Lessor and shall only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides to be used, dates and methods of application and reasons for use.
- d. There shall be no vegetation removal that would result in less than 50% ~~area~~aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height of less than 15 feet, nor cut nor destroy any growth nor make any clearings except

~~Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.~~

- ~~g. Lessee shall make every reasonable effort to be in conformance with the "Recommended Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler" document, dated January 2013, which a copy is attached to this lease.~~
- h. Lessee agrees not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessors' costs, including, but not limited to reasonable attorneys' fees.
- j. – No non-forest waste, debris, garbage or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g. wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. – Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing; pole setting, wiring)-. At the time ~~the~~ construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to BMP standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011.) . Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed access points,

temporary trails, inspection and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community and Significant Vernal Pool field surveys must be conducted by Lessee or Lessee's designee prior to all construction. Lessee shall send to Lessor a copy of all completed surveys.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. ~~Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 90 days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.~~

7. Liability and Insurance.

- a. Lessee shall without unreasonable delay inform Lessor ~~immediately~~ of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.
- b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorneys' fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. -The Lessee shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollar each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~ Upon execution of this Lease, the Lessee shall furnish the Lessor with ~~a~~ certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written ~~consent of Lessor,~~ which shall be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, ~~and~~ said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and that~~ such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.
11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing ~~to not to remove~~ in writing it. If the



Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

13. Default.

a. The following shall constitute a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~ or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien or attachment will be released within a reasonable time not to exceed ninety (90) days or such other time as is required under any applicable circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations or ordinances; or (6) Lessee shall abandon the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period ~~(is there a cure period for 5 above?)~~ as defined in 6 (m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fee, incurred by reason of such default or termination hereof. Prior to enforcement of any remedy permitted hereby, Lessor shall provide Lessee with written notice of an event or occurrence of default under this section 13 (a)(1) and Lessee shall have a reasonable period as the circumstances of time as the circumstances giving rise to the default dictate to cure said default which period shall not exceed [ ] days; provided that if Lessee has provided Lessor with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the cure period shall be extended as applicable.

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the

Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]

15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorneys' fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law

to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.

22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Public Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to \_\_\_\_\_
25. General Provisions:
  - a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
  - c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**

Department of Agriculture, Conservation, and Forestry  
Division of Parks and Public Lands

By: \_\_\_\_\_  
Willard R. Harris, Jr., Director

Dated: \_\_\_\_\_, 2013

\_\_\_\_\_  
Witness

Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

**TRANSMISSION LINE LEASE**  
**BETWEEN**  
**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**  
**DIVISION OF PARKS AND PUBLIC LANDS**  
**And**

\_\_\_\_\_

This Lease Agreement is made by and between the State of Maine, by the ~~Bureau~~Division of Parks and ~~Public~~ Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the ~~Johnson Mountain and West Forks Plantation North East~~ Maine Public Reserved Lands in ~~Somerset~~ County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a ~~Three Hundred~~ ( ~~300~~ ) foot wide by approximately ~~Five Thousand Five Hundred~~ foot/mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:

**Commented [DAR1]:** This is an estimate measured off an aerial, it should be verified.

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under to~~ the provisions contained in paragraph 15 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth herein.

2. Rent. Lessee shall pay to the Lessor rental as follows:

~~A one time payment of Thirty five Thousand Dollars (\$35,000) an annual rent of \_\_\_\_\_ per year due on the date of execution of this lease. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) and each year thereafter for the initial five years, at which time and each five years~~

**Commented [DAR2]:** We are researching the rent and deciding on whether it should be a one time or an annual payment.

\_\_\_\_\_ thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of ~~others and of the Lessor on East Stream Road \_\_\_\_\_ Road;~~ to transmit electricity ~~and communication~~ over said wires, cables, or apparatus ~~installed on Lessee's other facilities.~~ Communication use and facilities shall only be for Lessee's own internal use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

**Commented [DAR3]:** Only for CMP communication use in connection with this utility line. Other Communication use and rights to lease are reserved by Lessor.

4. Quiet Enjoyment. So long as Lessee pays the rent and performs all of its non-monetary obligations and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. ~~However, the Lessee shall be allowed to cross \_\_\_\_\_ Road for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said road. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through \_\_\_\_\_ Road at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing~~

**Commented [KHF4]:** This section of corridor does not appear to be accessed by a road located on the Public Lot

~~repairs or upgrades to the \_\_\_\_\_ Road, Lessee must acquire prior written approval from Lessor.~~ Lessee shall also acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises, which approval shall not be unreasonably withheld, delayed, or conditioned.

b. The Lessor expressly reserves the right for itself or its guests, servants or agents to pass and repass over the described Premises ~~and \_\_\_\_\_ Road~~ at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as it may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least ~~three~~ business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

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6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. ~~Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliants~~, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Herbicides may only be applied after acquiring prior written approval from Lessor and shall only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month— prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides to be used, dates and methods of application, application locations and reasons for use.
- d. There shall be no vegetation removal that would result in less than 50% ~~area~~aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation c~~clearing~~ clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities

~~Commission and shall encourage a ground cover of woody species with a maximum mature height of less than 15 feet, nor cut nor destroy any growth nor make any clearings except Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.~~

- ~~g. Lessee shall make every reasonable effort to be in conformance with the "Recommended Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler" document, dated January 2013, which a copy is attached to this lease.~~
- h. Lessee agrees not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and [to the appropriate authorities](#).
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessors' costs, including, but not limited to reasonable attorneys' fees.
- j. - No non-forest waste, debris, garbage or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g. wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. - Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing; pole setting, wiring)-. At the time ~~the~~ construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to [Best Management Practices \(BMP\)](#) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 ~~→and all~~

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roads shall be built to Best Management Practices (BMP) standards as used herein, are those forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease..

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~~—~~ Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed access points, temporary trails, inspection and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community and Significant Vernal Pool field surveys must be conducted by Lessee or Lessee's designee prior to all construction. Lessee shall send to Lessor a copy of all completed surveys.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. — Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have ~~90~~<sup>60</sup> days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.

## 7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor ~~immediately~~ of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

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b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited

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to costs and attorneys' fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. ~~The~~ Lessee shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the ~~Lessor~~Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~Upon execution of this Lease, the Lessee shall furnish the Lessor with ~~a~~ certificate of insurance as verification of the existence of such liability insurance policy.

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8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.

9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.

10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written ~~consent of Lessor,~~ which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities. ~~said~~ uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and that~~ such use will not interfere with the rights herein conveyed. including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.

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11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed or conditioned, to the method of removal before any structures or improvements are removed from the Premises.

**Commented [DAR5]:** Lauren, Are these MPUC existing standards that do not change or can the MPUC change spacing standards when requested by the utility company? The State will retain other utility rights, but if Lessee can request spacing changes and potential additional pole locations, how could the State grant an underground fiber optic cable?

12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing to not to remove ~~in writing it~~. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

13. Default.

a. The following shall constitute a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~ or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien or attachment will be released within a reasonable time not to exceed ninety (90) days or such other time as is required under any applicable circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations or ordinances; or (6) Lessee shall abandon the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period ~~(is there a cure period for 5 above?)~~ as defined in 6 (m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fee, incurred by reason of such default or termination hereof. Prior to enforcement of any remedy permitted hereby, Lessor shall provide Lessee with written notice of an event or occurrence of default under this section 13 (a)(1) and Lessee shall have a reasonable period as the circumstances of time as the circumstances giving rise to the default dictate to cure said default which period shall not exceed [ 90 ] days; provided that if Lessee has

**Commented [DAR6]:** Lauren, does 90 days seem reasonable to you?

provided Lessor with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the cure period shall be extended as applicable.

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorneys' fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a)

**Commented [DAR7]:** Lauren, Can we remove this? Didn't we get a determination from your office that a lease is a contract and the legislature should not be able to break an existing contract?

to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.

20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Public Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to \_\_\_\_\_
25. General Provisions:
  - a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
  - c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
Department of Agriculture, Conservation, and Forestry  
~~Bureau~~Division of Parks and ~~Public~~ Lands

Director

By: \_\_\_\_\_  
~~Willard R. Harris, Jr.,~~  
Thomas Morrison Acting

Dated: \_\_\_\_\_, 2014~~3~~

\_\_\_\_\_  
Witness

Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

**TRANSMISSION LINE LEASE**

**BETWEEN**

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**BUREAU DIVISION OF PARKS AND PUBLIC LANDS**

**And**

\_\_\_\_\_

This Lease Agreement is made by and between the State of Maine, by the Bureau ~~Division~~ of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the Johnson Mountain and West Forks Plantation North East \_\_\_\_\_ Maine Public Reserved Lands in Somerset \_\_\_\_\_ County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a Three Hundred ( 300 ) foot wide by approximately \_\_\_\_\_ mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:

**Commented [DAR1]:** Estimate measured off an aerial of approximately 5,500 feet

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under to~~ the provisions contained in paragraph 15 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth herein.

2. Rent. Lessee shall pay to the Lessor rental as follows:

~~A one time payment of Thirty five Thousand Dollars (\$35,000) an annual rent of \_\_\_\_\_ per year due on the date of execution of this lease. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) and each year thereafter for the initial five years, at which time and each five years~~

**Commented [DAR2]:** We are researching the rent and deciding on whether it should be a one time or an annual payment. Will also need to appraise the timber value over a 25 year period.

\_\_\_\_\_ thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of ~~others and of the Lessor on East Stream Road \_\_\_\_\_ Road;~~ to transmit electricity ~~and communication~~ over said wires, cables, or apparatus ~~installed on Lessee's facilities. Communication use and facilities, shall only be for Lessee's own use and for the Lessor approved Fairpoint/CMP communication contract. Lessee shall not sub-lease or contract the communication facilities for any commercial use.~~ The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

**Commented [DAR3]:** Only for CMP communication. Other Communication use on Premises and not located on Lessee's facilities is reserved by Lessor.

4. Quiet Enjoyment. So long as Lessee pays the rent and performs all of its non-monetary obligations and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross ~~Lessor's abutting land by using Lessor's Forest Management Roads \_\_\_\_\_ Road~~ for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through ~~The Forest Management \_\_\_\_\_ Roads~~ at any time it appears

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**Commented [KHF4]:** This section of corridor does not appear to be accessed by a road located on the Public Lot



reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management~~\_\_\_\_\_Roads~~, Lessee must acquire prior written approval from Lessor. Lessee shall ~~also~~ acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises, which approval shall not be unreasonably withheld, delayed, or conditioned.

- b. \_\_\_\_\_ The Lessor expressly reserves the right for itself or its guests, servants or agents to pass and repass over the described Premises ~~and \_\_\_\_\_Road~~ at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as it may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least ~~three~~ business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

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6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. ~~Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliants~~, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Herbicides may only be applied after acquiring prior written approval from Lessor and shall only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides to be used, dates and methods of application, application locations and reasons for use.
- d. There shall be no vegetation removal that would result in less than 50% ~~area~~aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July

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15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.

- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. ~~Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height of less than 15 feet, nor cut nor destroy any growth nor make any clearings except Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.~~
- g. ~~Lessee shall make every reasonable effort to be in conformance with the "Recommended Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler" document, dated January 2013, which a copy is attached to this lease.~~
- h. Lessee agrees not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and [to the appropriate authorities](#)
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessors' costs, including, but not limited to reasonable attorneys' fees.
- j. – No non-forest waste, debris, garbage or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g. wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.

k. - Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing; pole setting, wiring)-. At the time ~~the~~ construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 ~~→and all roads shall be built to Best Management Practices (BMPs) standards as used herein, are those forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease..~~

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~~—~~ Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed access points, temporary trails, inspection and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

l. Natural Plant Community, ~~and wetland~~ and Significant Vernal Pool field surveys must be conducted by Lessee or Lessee's designee prior to all construction. Lessee shall send to Lessor a copy of all completed surveys.

m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. ~~—~~ Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have ~~90/60/30~~ days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.

n. Lessee agrees to relocate the existing utility line (100-foot corridor lease) on Lessor's Johnson Mountain and West Forks Plantation North East Maine Public Reserved Lands property onto this new corridor, from the point of intersection with the new corridor. Lessee agrees to terminate the existing lease with Lessor on the abandoned utility corridor section and to remove all of Lessee's facilities from the abandoned corridor section.

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7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor ~~immediately~~ of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

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b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorneys' fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

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c. ~~The~~ Lessee shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the ~~Lessor~~Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~Upon execution of this Lease, the Lessee shall furnish the Lessor with ~~a~~ certificate of insurance as verification of the existence of such liability insurance policy.

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8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.

9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land.

Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.

10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, ~~which consent shall not be unreasonably withheld.~~ Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, ~~and~~ said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and that~~ such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.
11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing to not to remove ~~in writing it.~~ If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.
13. Default.
  - a. The following shall constitute a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~ or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien or attachment will be released within a reasonable time not to exceed ninety (90) days or such other time as is required under any applicable

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circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations or ordinances; or (6) Lessee shall abandon the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period ~~(is there a cure period for 5 above?) as defined in 6 (m), above~~, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fee, incurred by reason of such default or termination hereof. Prior to enforcement of any remedy permitted hereby, Lessor shall provide Lessee with written notice of an event or occurrence of default under this section 13 (a)(1) and Lessee shall have a reasonable period as the circumstances of time as the circumstances giving rise to the default dictate to cure said default which period shall not exceed [ 90 ] days; provided that if Lessee has provided Lessor with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the cure period shall be extended as applicable.

**Commented [DAR5]:** Lauren, does 90 days seem reasonable to you?

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]

**Commented [DAR6]:** Ken, Please send us what you recommend for modifications?

15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorneys' fees that Lessor may incur in connection with the same.

16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or

partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.

17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Public Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to \_\_\_\_\_
25. General Provisions:



- a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
- b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
- c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**

Department of Agriculture, Conservation, and Forestry  
~~Bureau~~Division of Parks and ~~Public~~ Lands

By: \_\_\_\_\_  
~~Thomas Morrison Acting~~Willard R. Harris, Jr.,

Director

Dated: \_\_\_\_\_, 201~~4~~3

\_\_\_\_\_  
 Witness

Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

Witness

**Koyanagi, Gayle**

---

**From:** Freye, Kenneth H <Kenneth.Freye@cmpco.com>  
**Sent:** Tuesday, September 30, 2014 5:43 PM  
**To:** Rodrigues, David  
**Subject:** BPL Sample LEASE 2014-9-30.docx  
**Attachments:** BPL Sample LEASE 2014-9-30.docx

David,

Attached is the draft lease with the following additions:

- Lessee name and address
- lease location
- corridor width and length
- appraisal language in compensation paragraph

I believe the reference to the use of roads can be deleted but will wait until you have done your site visit. I have not added anything regarding the Jackman Tie Line as I am not sure if it should be addressed in the lease or a separate agreement. However it is addressed, the line cannot be relocated until this project has moved ahead to the point where it is certain it will be constructed.

I did talk to Luke Muzzy at Plum Creek. Plum Creek is reserving sufficient width at the Capital Road crossing of Cold Stream to facilitate both the proposed high voltage DC line and the Jackman Tie Line so nothing else has to be done at that location.

Please let me know if you have any questions or comments.

Ken

=====

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=====

Por favor, piense en el medio ambiente antes de imprimir este mensaje.

Si usted recibe por error este mensaje, por favor comuniquelo a su remitente y borre inmediatamente tanto el mensaje como cualquier anexo o copia del mismo, ya que contiene informacion confidencial, dirigida exclusivamente a su destinatario y cuya utilizacion o divulgacion a terceros estan prohibidas por la ley, pudiendo dar lugar a responsabilidades civiles y/o penales.

Las ideas contenidas en este mensaje son exclusivas de su(s) autor(es) y no representan necesariamente el criterio de Iberdrola, S.A. ni de otras sociedades de su grupo. Ni Iberdrola, S.A. ni ninguna sociedad de su grupo garantiza la integridad, seguridad y correcta recepcion de este mensaje, ni se responsabiliza de los posibles perjuicios de

cualquier naturaleza derivados de la captura de datos, virus informaticos o manipulaciones efectuadas por terceros.

=====

**TRANSMISSION LINE LEASE**

**BETWEEN**

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**  
**DIVISION OF PARKS AND PUBLIC LANDS**

**And**

**CENTRAL MAINE POWER COMPANY**

—This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the “Lessor”) acting pursuant to the provisions of Title 12 MRSA §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine, (hereinafter called “Lessee”). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine, which property is described in Exhibit “A” and shown on Exhibit “B” attached hereto and incorporated herein and being approximately a Three Hundred (300) foot wide by approximately one mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the “Property or Premises”, subject to the following terms and conditions:

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

~~b.-~~ Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under~~ the provisions contained in paragraph 15 Default.

~~c.-~~ Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

~~d.-~~ Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth herein.



2. Rent. Lessee shall pay to the Lessor rental as follows:

~~A one time payment of Thirty-five Thousand Dollars (\$35,000) an annual rent of \_\_\_\_\_ per year due on the date of execution of this lease (the "Initial Payment"). Lessor may, within the first twelve months of the lease and at Lessor's sole discretion, commission an appraisal of the Premises. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal upon presentation of the appraisal to the Lessee by Lessor. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) or one-fifth of the appraised value, whichever is greater, and each year thereafter for the initial five years,~~ at which time and each five years

thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of ~~others and of~~ the Lessor on ~~East Stream Road~~ Road; to transmit electricity ~~and communication~~ over said wires, cables, or apparatus. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

4. Quiet Enjoyment. So long as Lessee pays the rent and performs all of its non-monetary obligations and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Road for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said road. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through Road at any

time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the \_\_\_\_\_ Road, Lessee must acquire prior written approval from Lessor. Lessee shall also acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises, which approval shall not be unreasonably withheld, delayed, or conditioned.

b. The Lessor expressly reserves the right for itself or its guests, servants or agents to pass and repass over the described Premises and \_\_\_\_\_ Road at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as it may from time to time exist, provided that: said uses will comply with the above reference safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least ~~three~~ business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

6. Lessee Covenants. The Lessee covenants as follows:

a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.

b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.

~~c. Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliant~~, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Herbicides may only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency.

~~d. There shall be no vegetation removal that would result in less than 50% areal/aerial~~ coverage of woody vegetation and stream shading within 25-feet of a stream.

~~e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15;~~ provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.

~~f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height of less than 15 feet, nor cut nor destroy any growth nor make any clearings except Lessee~~

~~may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.~~

~~g.— Lessee shall make every reasonable effort to be in conformance with the “Recommended Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler” document, dated January 2013, which a copy is attached to this lease.~~

~~h.— Lessee agrees not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee’s disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities.~~

~~i.— Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, “septic” shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee’s activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessors’ costs, including, but not limited to reasonable attorneys’ fees.~~

~~j.— No non-forest waste, debris, garbage or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g. wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in “stump dump” holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.~~

~~k.— Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing; pole setting, wiring)-. At the time the construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to BMP standards as shown in the “Maine Motorized Trail Construction and Maintenance Manual” written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011.) . Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details~~

and maps on proposed access points, temporary trails, inspection and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

l.- Natural Plant Community and Significant Vernal Pool field surveys must be conducted by Lessee or Lessee's designee prior to all construction. Lessee shall send to Lessor a copy of all completed surveys.

m.- Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 90/60/30 days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.

7. Liability and Insurance.

a.- Lessee shall without unreasonable delay inform Lessor immediately of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b.- Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorneys' fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents

of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

~~c.~~ The Lessee shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollar each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~ Upon execution of this Lease, the Lessee shall furnish the Lessor with a certificate of insurance as verification of the existence of such liability insurance policy.

8. ~~Lessee's Liability for Damages.~~ Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.

9. ~~Tax Proration.~~ Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.

10. ~~Lease Assignment, Sublease and Colocation:~~ Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, ~~which shall be unreasonably withheld.~~ Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, ~~and~~ said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and that~~ such use will not interfere with the rights herein conveyed, ~~including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.~~

11. ~~Lessee's Removal of Structures:~~ Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed or conditioned, to the method of removal before any structures or improvements are removed from the Premises.

12. ~~Surrender.~~ Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and charge the Lessee



with the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing to not to remove in writing it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

**13. Default.**

a.- The following shall constitute a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~ or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien or attachment will be released within a reasonable time not to exceed ninety (90) days or such other time as is required under any applicable circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations or ordinances; or (6) Lessee shall abandon the leased premises.

b.- Upon the occurrence of any such event of default and subject to any applicable cure period (is there a cure period for 5 above?) as defined in 6 (m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fee, incurred by reason of such default or termination hereof. Prior to enforcement of any remedy permitted hereby, Lessor shall provide Lessee with written notice of an event or occurrence of default under this section 13 (a)(1) and Lessee shall have a reasonable period as the circumstances of time as the circumstances giving rise to the default dictate to cure said default which period shall not exceed [ ] days; provided that if Lessee has provided Lessor with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the cure period shall be extended as applicable.

**14. Statutory Authority Over Public Lands.** Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise

said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [file note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]

15.— **Mechanics Lien.** If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorneys' fees that Lessor may incur in connection with the same.

16.— **Succession; No Partnership.** This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.

17.— **Waiver.** Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.

18.— **Force Majeure.** Except as expressly provided herein, there shall be no abatement, diminution or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.

19.— **Eminent Domain.** In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.

20.— **Holding Over.** If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.

21.— Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.

22.— Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.

23.— Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.

24.— 24.— Notices. All notice, demands and other communications required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to: State of Maine, Department of Agriculture, Conservation and Forestry, Division of Parks and Public Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to: Central Maine Power Company, 83 Edison Drive, Augusta, Maine 04336, Attn: Real Estate Services

25.— General Provisions:

a.— Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.

b.— Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.

c.— Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

\_\_\_\_\_  
*Lessor:*

\_\_\_\_\_  
**STATE OF MAINE**  
\_\_\_\_\_  
Department of Agriculture, Conservation, and Forestry  
\_\_\_\_\_  
Division of Parks and Public Lands

\_\_\_\_\_  
*By:* \_\_\_\_\_  
\_\_\_\_\_  
**Willard R. Harris, Jr., Director**

\_\_\_\_\_  
**Dated:** \_\_\_\_\_, 2013

\_\_\_\_\_  
\_\_\_\_\_  
Witness

\_\_\_\_\_  
*Lessee:*

CENTRAL MAINE POWER COMPANY

\_\_\_\_\_  
*by* ~~BY:~~ \_\_\_\_\_

**Dated:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Witness





**TRANSMISSION LINE LEASE**

**BETWEEN**

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**BUREAU DIVISION OF PARKS AND PUBLIC LANDS**

**And**

**CENTRAL MAINE POWER COMPANY**

This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a Three Hundred (300) foot wide by approximately one mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:

~~This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the \_\_\_\_\_ Maine Public Reserved Lands in \_\_\_\_\_ County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a \_\_\_\_\_ ( ) foot wide by approximately \_\_\_\_\_ mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:~~

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under to~~ the provisions contained in paragraph 15 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth herein.

2. Rent. Lessee shall pay to the Lessor rental as follows:

A one time payment of Thirty-five Thousand Dollars (\$35,000) due on the date of execution of this lease (the "Initial Payment"). Lessor may, within the first twelve months of the lease and at Lessor's sole discretion, commission an appraisal of the Premises. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal upon presentation of the appraisal to the Lessee by Lessor. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) or one-fifth of the appraised value, whichever is greater., at which time and each five years thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.

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~~A one time payment of Thirty five Thousand Dollars (\$35,000) in annual rent of \_\_\_\_\_ per year due on the date of execution of this lease. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) and each year thereafter for the initial five years, at which time and each five years thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.~~

**Commented [DAR1]:** We are researching the rent and deciding on whether it should be a one time or an annual payment. Will also need to appraise the timber value over a 25 year period.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of ~~others and of the Lessor on East Stream Road \_\_\_\_\_ Road;~~ to transmit electricity ~~and communication~~ over said wires, cables, or apparatus installed on Lessee's facilities. Communication use and facilities, shall only be for Lessee's own use and for the Lessor approved Fairpoint/CMP communication contract. Lessee shall not sub-lease or contract the

**Commented [DAR2]:** Only for CMP communication. Other Communication use on Premises and not located on Lessee's facilities is reserved by Lessor.

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communication facilities for any commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

4. Quiet Enjoyment. So long as Lessee pays the rent and performs all of its non-monetary obligations and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads ~~\_\_\_\_\_Road~~ for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through The Forest Management ~~\_\_\_\_\_Roads~~ at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management ~~\_\_\_\_\_Roads~~, Lessee must acquire prior written approval from Lessor. Lessee shall ~~also~~ acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises, which approval shall not be unreasonably withheld, delayed, or conditioned.

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**Commented [KHF3]:** This section of corridor does not appear to be accessed by a road located on the Public Lot

b. The Lessor expressly reserves the right for itself or its guests, servants or agents to pass and repass over the described Premises ~~and \_\_\_\_\_Road~~ at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as it may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least ~~three~~ <sup>3</sup> business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

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6. Lessee Covenants. The Lessee covenants as follows:

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- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. ~~Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliant~~, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Herbicides may only be applied after acquiring prior written approval from Lessor and shall only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month— prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides to be used, dates and methods of application, application locations and reasons for use.
- d. There shall be no vegetation removal that would result in less than 50% ~~areal~~aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation c~~Clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height of less than 15 feet, nor cut nor destroy any growth nor make any clearings except Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.~~
- g. ~~Lessee shall make every reasonable effort to be in conformance with the "Recommended Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler" document, dated January 2013, which a copy is attached to this lease.~~
- h. Lessee agrees not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities~~ies~~.

- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessors' costs, including, but not limited to reasonable attorneys' fees.
- j. No non-forest waste, debris, garbage or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g. wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing; pole setting, wiring). At the time ~~the~~ construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011. ~~and all roads shall be built to Best Management Practices (BMPs) standards as used herein, are those forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.~~
- l. Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed access points, temporary trails, inspection and maintenance access, and descriptions of any proposed bridges, temporary or permanent.
- m. Natural Plant Community, ~~and wetland and~~ Significant Vernal Pool field surveys must be conducted by Lessee or Lessee's designee prior to all construction. Lessee shall send to Lessor a copy of all completed surveys.

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m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. —Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have ~~90~~ days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.

n. Lessee agrees to relocate the existing utility line (100-foot corridor lease AKA the Jackman Tie Line) on Lessor's Johnson Mountain and West Forks Plantation North East Maine Public Reserved Lands property onto this new corridor, from the point of intersection with the new corridor. The relocation of the Jackman Tie Line will take place at the time the new utility corridor is constructed. Lessee agrees to terminate the existing lease with Lessor on the abandoned utility corridor section and to remove all of Lessee's facilities from the abandoned corridor section.

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7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor ~~immediately~~ of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

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b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorneys' fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages and claims by whoever

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brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. ~~The~~ Lessee shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars ~~for~~ each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the ~~Lessor~~Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~Upon execution of this Lease, the Lessee shall furnish the Lessor with ~~a~~ certificate of insurance as verification of the existence of such liability insurance policy.

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8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.

9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.

10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written ~~consent of Lessor,~~ which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, ~~and~~ said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and~~ that such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.

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11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed or conditioned, to the method of removal before any structures or improvements are removed from the Premises.

12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and

charge the Lessee with the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing to not to remove ~~in writing it~~. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

13. Default.

a. The following shall constitute a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~ or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien or attachment will be released within a reasonable time not to exceed ninety (90) days or such other time as is required under any applicable circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations or ordinances; or (6) Lessee shall abandon the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period ~~(is there a cure period for 5 above?)~~ as defined in 6 (m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fee, incurred by reason of such default or termination hereof. Prior to enforcement of any remedy permitted hereby, Lessor shall provide Lessee with written notice of an event or occurrence of default under this section 13 (a)(1) and Lessee shall have a reasonable period as the circumstances of time as the circumstances giving rise to the default dictate to cure said default which period shall not exceed 90 days; provided that if Lessee has provided Lessor with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the cure period shall be extended as applicable.

**Commented [DAR4]:** Lauren, does 90 days seem reasonable to you?

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee

may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]

**Commented [DAR5]:** Ken, Please send us what you recommend for modifications?

15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorneys' fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.

21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Public Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to \_\_\_\_\_
25. General Provisions:
  - a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
  - c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**

Department of Agriculture, Conservation, and Forestry  
~~Bureau~~Division of Parks and ~~Public~~ Lands

By: \_\_\_\_\_

~~Thomas Morrison Acting~~Willard R. Harris, Jr.,

Director

Dated: \_\_\_\_\_, 201~~4~~<sup>3</sup>

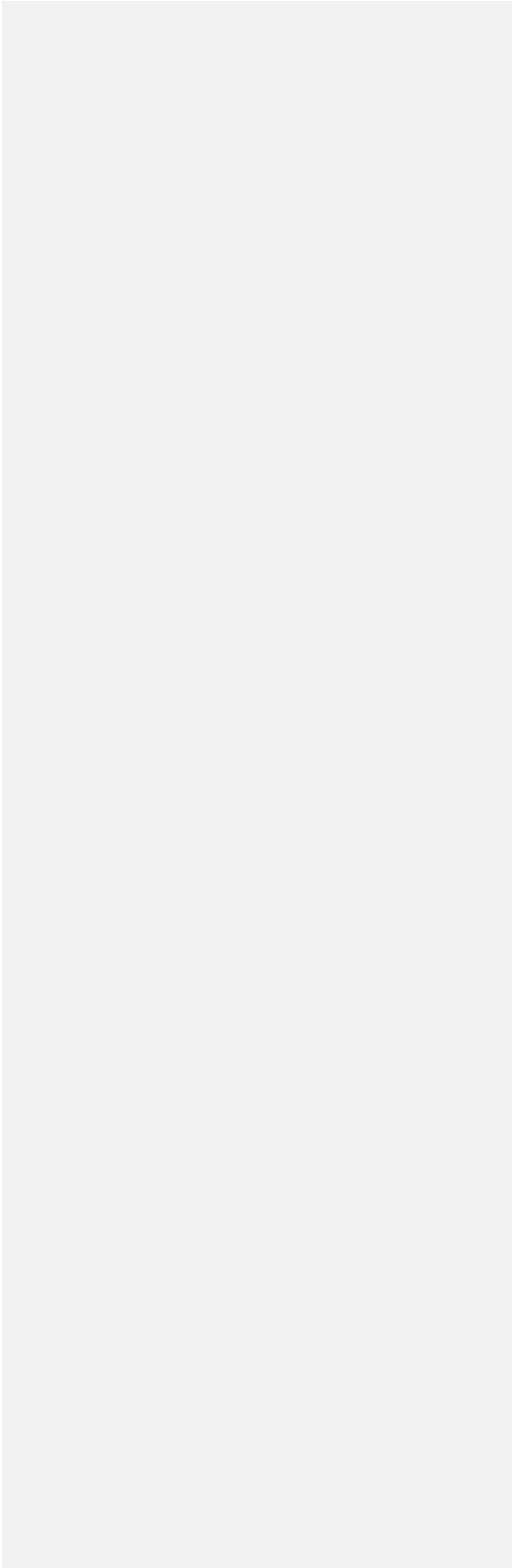
\_\_\_\_\_  
Witness

Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness



## Koyanagi, Gayle

---

**From:** Parker, Lauren  
**Sent:** Thursday, October 16, 2014 10:11 AM  
**To:** Rodrigues, David  
**Subject:** RE: Johnson Mountain Lease

I do have one question for you: does Exhibit A describe only the transmission line corridor?

---

**From:** Parker, Lauren  
**Sent:** Thursday, October 16, 2014 10:08 AM  
**To:** Rodrigues, David  
**Subject:** RE: Johnson Mountain Lease

David,

Good morning. I made a number of changes to the lease, some of which are substantive, and also had a few questions/comments. Please give me a call with any questions.

Thanks,

Lauren

---

**From:** Rodrigues, David  
**Sent:** Tuesday, October 14, 2014 5:14 PM  
**To:** Parker, Lauren  
**Subject:** Johnson Mountain Lease

Hi Lauren,

New draft of the Utility Lease Please review.

Thanks,  
David



## Koyanagi, Gayle

---

**From:** Parker, Lauren  
**Sent:** Thursday, October 16, 2014 10:08 AM  
**To:** Rodrigues, David  
**Subject:** RE: Johnson Mountain Lease  
**Attachments:** Draft Lease CMP 10-16-14.docx

David,

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Lauren

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**From:** Rodrigues, David  
**Sent:** Tuesday, October 14, 2014 5:14 PM  
**To:** Parker, Lauren  
**Subject:** Johnson Mountain Lease

Hi Lauren,

New draft of the Utility Lease Please review.

Thanks,  
David

**TRANSMISSION LINE LEASE**  
**BETWEEN**  
**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**  
**BUREAU DIVISION OF PARKS AND PUBLIC LANDS**  
**And**  
**CENTRAL MAINE POWER COMPANY**

This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, and being an approximately a Three Hundred (300) foot wide by approximately one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands property. Which, The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:

~~This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non exclusive use of a portion of the \_\_\_\_\_ Maine Public Reserved Lands in \_\_\_\_\_ County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a \_\_\_\_\_ ( ) foot wide by approximately \_\_\_\_\_ mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:~~

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall

be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under~~ to the provisions contained in paragraph ~~15~~ 13 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth ~~herein~~ in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

A one time payment of Thirty-five Thousand Dollars (\$35,000) due on the date of execution of this lease (the "Initial Payment"). Lessor may, within the first twelve months of the lease and at Lessor's sole discretion, commission an appraisal of the Premises. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal upon presentation of the appraisal to the Lessee by Lessor. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) or one-fifth of the appraised value, whichever is greater, at which time and each five years thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.

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~~A one time payment of Thirty five Thousand Dollars (\$35,000) in annual rent of \_\_\_\_\_ per year due on the date of execution of this lease. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) and each year thereafter for the initial five years, at which time and each five years thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.~~

Commented [DAR1]: We are researching the rent and deciding on whether it should be a one time or an annual payment. Will also need to appraise the timber value over a 25 year period.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of ~~others and of the Lessor on~~ East Stream Road Road; to transmit electricity ~~and communication, as~~ conditioned below, over said wires, cables, or apparatus installed on Lessee's facilities.

Commented [LP2]: On what grounds does the State have the authority to grant CMP access over the property of private landowners? Any such permission should come from those landowners of such property and be the subject of an agreement to which those landowners are a party.

Commented [DAR3]: Only for CMP communication. Other Communication use on Premises and not located on Lessee's facilities is reserved by Lessor.

Communication use and facilities, shall ~~only~~ be for ~~only~~ Lessee's own use and for the Lessor approved Fairpoint/CMP communication contract. Lessee shall not sub-lease or contract the communication facilities for any commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

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4. Quiet Enjoyment. So long as Lessee pays the rent, ~~and~~ performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads ~~Road~~ for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management ~~Roads~~ at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management ~~Roads~~, Lessee must acquire prior written approval from Lessor. Lessee shall ~~also~~ acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises, which approval shall not be unreasonably withheld, delayed, or conditioned.

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Commented [KHF4]: This section of corridor does not appear to be accessed by a road located on the Public Lot

b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises ~~and~~ ~~Road~~ at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as ~~such uses~~ may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least ~~three~~ business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

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6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. ~~Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliants~~, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliants registered for use in Maine may only be applied to the Premises only after acquiring prior written approval from Lessor and shall only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides, herbicides, and chemical defoliants to be used, dates and methods of application, application locations and reasons for use.
- d. There shall be no vegetation removal that would result in less than 50% ~~areal~~<sup>aerial</sup> coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height of less than 15 feet. ~~nor cut nor destroy any growth nor make any clearings except Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.~~
- g. ~~Lessee shall make every reasonable effort to be in conformance with the "Recommended Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler" document, dated January 2013, which a copy is attached to this lease.~~
- h. Lessee shall agree not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local

**Commented [LP5]:** Is the Bureau comfortable with the application of herbicides, pesticides, and chemical defoliants on public reserved land? Is there a legitimate reason why CMP cannot solely rely on cutting/mowing/etc. as the means of vegetation control? Are any streams, wetlands, vernal pools, etc. located down gradient of this property that could be impacted by run off?

**Commented [LP6]:** "Shall encourage"? That is pretty weak language. Please call me to discuss potential conflict between this provision 6(d) & (e)? If a potential conflict exists, we need to be explicit that more restrictive provision applies.

**Commented [LP7]:** Leave in.

**Commented [LP8]:** What is CMP's objection to this? The language arguably does not even require full compliance with the BMPs. To the extent the Bureau requires other lessees to comply with these BMPs, and absent some extenuating circumstances, I recommend keeping this provision. If this provision is kept out, this section (after "f") needs to re-numbered.

regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities

- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's costs, including, but not limited to reasonable attorney's fees.

- j. No non-forest waste, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.

- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time ~~the~~ construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011, ~~and all roads shall be built pursuant to those Best Management Practices (BMPs) standards as used herein, are those pertaining to forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.~~

- ~~—~~ Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary access points, temporary trails,

**Commented [LP9]:** This provision is explicit regarding treatment of "non-forest waste" and "forest woody waste." Do we need to be concerned about forest waste that is not "forest woody waste"?

**Commented [LP10]:** Does Bureau want any say in the location of stump dump holes? Especially since this provision allows CMP to bury an unlimited number of stumps in one stump dump hole?

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inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community, ~~and wetland and~~ Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to any construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.

**Commented [LP11]:** Is there any significant wildlife habitat on the property?

- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. ~~Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30906030 days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.~~

**Commented [LP12]:** NO!

- n. Lessee ~~agrees to~~ shall relocate the existing utility line (100-foot corridor lease AKA the Jackman Tie Line) on Lessor's Johnson Mountain and West Forks Plantation North East Maine Public Reserved Lands property onto this new corridor, from the point of intersection with the new corridor. The relocation of the Jackman Tie Line will take place at the time the new utility corridor is constructed. Upon completion of the relocation, Lessee agrees to terminate the existing lease with Lessor on the abandoned utility corridor section and ~~to remove~~ all of Lessee's facilities from the abandoned corridor section in accordance with the provisions of that lease.

CMP is responsible for and fully capable of obtaining all legally required permits in a timely fashion. Thirty days to cure a default that should not happen in the first instance is generous. Ninety days to seek to cure such failure (which falls fall short of actually curing) plus time to prosecute, plus time to cure afforded by ¶ 13(b) is excessive. If CMP fails to get a permit and is making a good faith effort to remedy any such failure, it can explain that to the Bureau and, because the Bureau is reasonable, successfully persuade the Bureau not to exercise its discretion to terminate this lease, pursuant to this paragraph and paragraph 13(b).

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7. Liability and Insurance.

- a. Lessee shall without unreasonable delay inform Lessor ~~immediately~~ of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

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- b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall

indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorney's fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. -The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the ~~Lessor~~ Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~ Upon execution of this Lease, the Lessee shall furnish the Lessor with ~~a~~ certificate of insurance as verification of the existence of such liability insurance policy.

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8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.

9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.

10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written ~~consent~~ of Lessor, which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, ~~and~~ said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and~~ ~~that~~ such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.

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**Commented [LP13]:** This limits the Bureau's ability to withhold consent. Are you OK with that?

11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.

12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and ~~charge the~~ Lessee shall reimburse Lessor for ~~with~~ the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing ~~to not to~~ remove in writing ~~it~~. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

Commented [LP14]: incapable?

13. Default.

a. The following ~~shall~~ constitutes a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~ or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies or such other time as is required under any applicable circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations, or ordinances; or (6) Lessee's ~~shall~~ abandonment of the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period ~~(is there a cure period for 5 above?) as defined in paragraph 6-(m), above~~, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for

loss and expense, including reasonable attorney's fees, incurred by reason of such default or termination hereof. ~~Prior to enforcement of any remedy permitted hereby, Lessor shall~~ will provide Lessee with written notice of an event or occurrence of default under this section paragraph 13-(a)(1) and Lessee shall have a reasonable period as the circumstances of time, as determined by Lessor, as the circumstances giving rise to the default dictate to cure said default which period shall not exceed [ 90/30 ] days; provided, however, that if Lessee has provided/satisfies to Lessor that Lessee with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period shall be extended as applicable.

**Commented [DAR15]:** Lauren, does 90 days seem reasonable to you?

**Commented [LP16]:** NO, it seems excessive. Especially given the language that follows (and that Lessee gets an additional 30 days to cure circumstances covered by paragraph 6(m) (e.g., failure to obtain legally required permits)). Stick with 30 days max. If Lessee can satisfy to the Bureau that it is making a good faith effort to cure the default, the Bureau may exercise its discretion to give Lessee more time to cure, as opposed to terminating. If Lessee is not making a good faith effort, the Bureau does not want its hands tied for that long.

Also, having time to cure undermines the requirement in ¶ 15 requiring Lessee to immediately cause liens to be discharged.

**Commented [DAR17]:** Ken, Please send us what you recommend for modifications?

**Commented [LP18]:** I'd like to review any modification proposed by Lessee to this paragraph.

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification]. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorneys' fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.

18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and ~~Public~~Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to [REDACTED]
25. General Provisions:
- a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.

**Commented [LP19]:** This needs to be filled in.

c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**

Department of Agriculture, Conservation, and Forestry  
~~Bureau~~Division of Parks and ~~Public~~ Lands

By: \_\_\_\_\_  
Thomas Morrison Acting Willard R. Harris, Jr.,

Director

Dated: \_\_\_\_\_, 2014~~3~~

\_\_\_\_\_  
Witness

Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness



**TRANSMISSION LINE LEASE**

**BETWEEN**

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**BUREAU DIVISION OF PARKS AND PUBLIC LANDS**

**And**

**CENTRAL MAINE POWER COMPANY**

This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, and being an approximately a Three Hundred (300) foot wide by approximately one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands property. Which, The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:

~~This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non exclusive use of a portion of the \_\_\_\_\_ Maine Public Reserved Lands in \_\_\_\_\_ County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a \_\_\_\_\_ ( ) foot wide by approximately \_\_\_\_\_ mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:~~

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall

be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under~~ to the provisions contained in paragraph ~~15~~ 13 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth ~~herein~~ in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

A one time payment of Thirty-five Thousand Dollars (\$35,000) due on the date of execution of this lease (the "Initial Payment"). Lessor may, within the first twelve months of the lease and at Lessor's sole discretion, commission an appraisal of the Premises. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal upon presentation of the appraisal to the Lessee by Lessor. Lessee shall also pay to Lessor the the stumpage value of the timber on the entire Premises at the time the corridor is cut to be constructed as a utility corridor negotiate pricing at time of harvest based on mill scale and stumpage value at the time of harvest

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Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) or one-fifth of the appraised value, whichever is greater., at which time and each five years thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.

~~A one time payment of Thirty five Thousand Dollars (\$35,000) in annual rent of \_\_\_\_\_ per year due on the date of execution of this lease. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) and each year thereafter for the initial five years, at which time and each five years \_\_\_\_\_ thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.~~

Commented [DAR1]: We are researching the rent and deciding on whether it should be a one time or an annual payment. Lessee will have to pay the stumpage value of the trees harvested within the corridor at the time the corridor is cut and the appraiser will appraise the lost timber value to Lessor over a 25 year period.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools

and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of ~~others and of the Lessor on East Stream Road~~ Road; to transmit electricity ~~and communication, as conditioned below~~; over said wires, cables, or apparatus installed on Lessee's facilities. Communication use and facilities, shall only be for only Lessee's own use and for the Lessor approved Fairpoint/CMP communication contract. Lessee shall not sub-lease or contract the communication facilities for any commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

**Commented [LP2]:** On what grounds does the State have the authority to grant CMP access over the property of private landowners? Any such permission should come from those landowners of such property and be the subject of an agreement to which those landowners are a party.

**Commented [DAR3]:** Only for CMP communication. Other Communication use on Premises and not located on Lessee's facilities is reserved by Lessor.

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4. Quiet Enjoyment. So long as Lessee pays the rent, ~~and~~ performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads ~~Road~~ for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management ~~Roads~~ at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management ~~Roads~~, Lessee must acquire prior written approval from Lessor. Lessee shall ~~also~~ acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises, which approval shall not be unreasonably withheld, delayed, or conditioned.

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**Commented [KHF4]:** This section of corridor does not appear to be accessed by a road located on the Public Lot

b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises ~~and~~ ~~Road~~ at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as ~~such uses~~ may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least three ~~3~~ business days prior written notice if Lessor will be on

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the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. ~~Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliants~~, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliants registered for use in Maine may only be applied to the Premises only after acquiring prior written approval from Lessor and shall only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides, herbicides, and chemical defoliants to be used, dates and methods of application, application locations and reasons for use.
- d. There shall be no vegetation removal that would result in less than 50% ~~areal~~ aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height of less than 15 feet. ~~nor cut nor destroy any growth nor make any clearings except Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.~~
- g. ~~Lessee shall make every reasonable effort to be in conformance with the "Recommended Best Practices for Utility Corridor Construction and Maintenance~~

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**Commented [LP5]:** Is the Bureau comfortable with the application of herbicides, pesticides, and chemical defoliants on public reserved land? Is there a legitimate reason why CMP cannot solely rely on cutting/mowing/etc. as the means of vegetation control? Are any streams, wetlands, vernal pools, etc. located down gradient of this property that could be impacted by run off?

**Commented [LP6]:** "Shall encourage"? That is pretty weak language. Please call me to discuss potential conflict between this provision 6(d) & (e)? If a potential conflict exists, we need to be explicit that more restrictive provision applies.

**Commented [LP7]:** Leave in.

~~on Division of Parks and Public Lands at Cutler” document, dated January 2013, which a copy is attached to this lease.~~

- h. Lessee ~~shall agree~~ not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee’s disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities.
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee’s activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor’s costs, including, but not limited to reasonable attorney’s fees.
- j. ~~No non-forest waste, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in “stump dump” holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.~~
- k. - Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time ~~the~~ construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the “Maine Motorized Trail Construction and Maintenance Manual” written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 ~~and all roads shall be built pursuant to those Best Management Practices (BMPs) standards as used herein, are those pertaining to forest management and road construction practices set forth in the publication entitled, “Best Management Practices for Forestry: Protecting Maine’s Water Quality,” prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication’s most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.~~

**Commented [LP8]:** What is CMP’s objection to this? The language arguably does not even require full compliance with the BMPs. To the extent the Bureau requires other lessees to comply with these BMPs, and absent some extenuating circumstances, I recommend keeping this provision. If this provision is kept out, this section (after “f”) needs to re-numbered.

**Commented [LP9]:** This provision is explicit regarding treatment of “non-forest waste” and “forest woody waste.” Do we need to be concerned about forest waste that is not “forest woody waste”?

**Commented [LP10]:** Does Bureau want any say in the location of stump dump holes? Especially since this provision allows CMP to bury an unlimited number of stumps in one stump dump hole?

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— Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

l. ~~Natural Plant Community, and wetland and Significant Vernal Pool~~ field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to ~~any~~ construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.

**Commented [LP11]:** Is there any significant wildlife habitat on the property?

m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. — Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have ~~30~~ 30 days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.

**Commented [LP12]:** NO!

n. ~~Lessee agrees to~~ shall relocate the existing utility line (100-foot corridor lease AKA the Jackman Tie Line) on Lessor's Johnson Mountain and West Forks Plantation North East Maine Public Reserved Lands property onto this new corridor, from the point of intersection with the new corridor. The relocation of the Jackman Tie Line will take place at the time the new utility corridor is constructed. Upon completion of the relocation, Lessee agrees to terminate the existing lease with Lessor on the abandoned utility corridor section and to remove all of Lessee's facilities from the abandoned corridor section in accordance with the provisions of that lease.

CMP is responsible for and fully capable of obtaining all legally required permits in a timely fashion. Thirty days to cure a default that should not happen in the first instance is generous. Ninety days to seek to cure such failure (which falls short of actually curing) plus time to prosecute, plus time to cure afforded by ¶ 13(b) is excessive. If CMP fails to get a permit and is making a good faith effort to remedy any such failure, it can explain that to the Bureau and, because the Bureau is reasonable, successfully persuade the Bureau not to exercise its discretion to terminate this lease, pursuant to this paragraph and paragraph 13(b).

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## 7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor immediately of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.



b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorney's fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

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c. -The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the ~~Lessor~~ Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~ Upon execution of this Lease, the Lessee shall furnish the Lessor with ~~a~~ certificate of insurance as verification of the existence of such liability insurance policy.

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8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written ~~consent~~ of Lessor, which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, ~~and~~ said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and~~ ~~that~~ such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be

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**Commented [LP13]:** This limits the Bureau's ability to withhold consent. Are you OK with that?

accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.

11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and ~~charge the~~ Lessee shall reimburse Lessor for with the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing to not to remove ~~in writing it~~. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

Commented [LP14]: incapable?

13. Default.

a. The following ~~shall constitute~~ a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~ or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies or such other time as is required under any applicable circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations, or ordinances; or (6) Lessee's ~~shall~~ abandonment of the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period ~~(is there a cure period for 5 above?)~~ as defined in paragraph 6-(m),

above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fees, incurred by reason of such default or termination hereof. ~~Prior to enforcement of any remedy permitted hereby, Lessor shall~~ will provide Lessee with written notice of an event or occurrence of default under ~~this section~~ paragraph 13-(a)(1) and Lessee shall have a reasonable period ~~as the circumstances~~ of time, as determined by Lessor, ~~as the circumstances giving rise to the default dictate to cure said default which period shall not exceed [ 9030 ] days; provided, however, that if Lessee has provided~~ satisfies to Lessor that Lessee with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period ~~shall be extended as applicable.~~

**Commented [DAR15]:** Lauren, does 90 days seem reasonable to you?

**Commented [LP16]:** NO, it seems excessive. Especially given the language that follows (and that Lessee gets an additional 30 days to cure circumstances covered by paragraph 6(m) (e.g., failure to obtain legally required permits)). Stick with 30 days max. If Lessee can satisfy to the Bureau that it is making a good faith effort to cure the default, the Bureau may exercise its discretion to give Lessee more time to cure, as opposed to terminating. If Lessee is not making a good faith effort, the Bureau does not want its hands tied for that long.

Also, having time to cure undermines the requirement in ¶ 15 requiring Lessee to immediately cause liens to be discharged.

**Commented [DAR17]:** Ken, Please send us what you recommend for modifications?

**Commented [LP18]:** I'd like to review any modification proposed by Lessee to this paragraph.

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorney's fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this

Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.

18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and ~~Public~~Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to
25. General Provisions:
  - a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any

**Commented [LP19]:** This needs to be filled in.

provision herein is inconsistent with applicable state statute, the statute is deemed to govern.

- c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**

Department of Agriculture, Conservation, and Forestry  
~~Bureau~~Division of Parks and ~~Public~~ Lands

By: \_\_\_\_\_  
~~Thomas Morrison Acting~~Willard R. Harris, Jr.,

Director

Dated: \_\_\_\_\_, 201~~4~~3

\_\_\_\_\_  
Witness

Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

**From:** [Freya, Kenneth H](mailto:Freya.Kenneth.H)  
**To:** [Rodrigues, David](mailto:Rodrigues.David)  
**Subject:** RE: Johnson Mtn. Appraisal  
**Date:** Friday, October 17, 2014 4:06:49 PM

---

David,  
We are OK with Dan determining the annual rate.  
Ken

---

**From:** Rodrigues, David [<mailto:David.Rodrigues@maine.gov>]  
**Sent:** Friday, October 17, 2014 3:45 PM  
**To:** Freya, Kenneth H  
**Subject:** RE: Johnson Mtn. Appraisal

Thank you Ken, I believe you have captured what we just discussed. One clarification is that the appraisal assignment will be to determine what the annual rent should be. He will determine the annual rental rate, not a lump sum for the first 25 year term. If his annual rental rate exceeds \$1,400/year then Lessee will have to pay the difference and we will execute a lease amendment to reflect what the initial rent payment is.

Thanks,  
David

---

**From:** Freya, Kenneth H [<mailto:Kenneth.Freya@cmpco.com>]  
**Sent:** Friday, October 17, 2014 3:31 PM  
**To:** Rodrigues, David  
**Subject:** RE: Johnson Mtn. Appraisal

David,  
Per our discussion today, the proposal from Dan Dwyer for the appraisal of the 300-foot wide strip across the Public Lots in Johnson Mountain and West Forks Plantation is acceptable to CMP. Dirigo Partners will contract directly with Dan for the appraisal but CMP would like to have the lease executed prior to doing the appraisal.  
CMP is also agreeable to an annual payment rather than a lump sum payment with the annual payment adjusted annually by CPI. The initial payment will be the greater of \$1400 (\$35,000/25) or the appraised value/25. The lease may be extended for five years in the fifth year of the lease and every five years thereafter.  
CMP will pay for the value of the wood cut at the time the corridor is cleared based on then current stumpage values (currently estimated at \$45,000 for the entire 300-foot wide strip. The entire strip may not be cleared initially.  
I will check with our counsel regarding the language of paragraph 14, "Statutory Authority over Public Land" to see if he has alternative language for your consideration.  
Let me know if I missed anything. Thanks for keeping this moving along.  
Ken

---

**From:** Rodrigues, David [<mailto:David.Rodrigues@maine.gov>]  
**Sent:** Friday, October 17, 2014 12:13 PM  
**To:** Freya, Kenneth H



**Subject:** FW: Johnson Mtn. Appraisal

Hi Ken,

Below is the proposal from the appraiser Dan Dwyer for \$5,500. He can have it completed prior to the end of December. Please let me know if acceptable and we can move forward with it. Does CMP need the lease signed prior to the end of December?

Thanks,  
David

---

**From:** Dan Dwyer [<mailto:dwyerassociates@midmaine.com>]  
**Sent:** Friday, October 17, 2014 11:13 AM  
**To:** Rodrigues, David  
**Subject:** RE: Johnson Mtn. Appraisal

David;

I have reviewed the materials you forwarded on the corridor. I am also familiar with the area as I have been to Wilson Pond on snowmobile, be it some time ago.

I recognize the assignment 's scope as the same as the Cutler corridor that I worked on in the spring of 2013 and is the basis of my bid.

I anticipate 37 hours of field work and analysis which is bid at \$150/hr. concluding with a fee at \$5500 ,rounded.

Per current schedule this work would start in mid-December and be completed by the end of the month, barring storms etc....

I am also available to accompany you on your visit to the property next week.

If the bid is acceptable I will forward a formal proposal to your attention.

Thank you for allowing this office to place a bid.

Dan Dwyer

---

**From:** Rodrigues, David [<mailto:David.Rodrigues@maine.gov>]  
**Sent:** Friday, October 17, 2014 8:57 AM  
**To:** Dan Dwyer ([dwyerassociates@midmaine.com](mailto:dwyerassociates@midmaine.com))  
**Subject:** Johnson Mtn. Appraisal

Hi Dan,

We canceled the trip yesterday due to the weather and rescheduled for either Wednesday or Thursday next week depending on weather. Do you think you can join us on this site visit? Will you be able to have the quote by today?

Thanks,

David

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derivados de la captura de datos, virus informaticos o manipulaciones  
efectuadas por terceros.

=====

**From:** [Freya, Kenneth H](mailto:Freya.Kenneth.H)  
**To:** [Rodrigues, David](mailto:Rodrigues.David)  
**Subject:** RE: Johnson Mtn. Appraisal  
**Date:** Friday, October 17, 2014 3:30:51 PM

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David,

Per our discussion today, the proposal from Dan Dwyer for the appraisal of the 300-foot wide strip across the Public Lots in Johnson Mountain and West Forks Plantation is acceptable to CMP. Dirigo Partners will contract directly with Dan for the appraisal but CMP would like to have the lease executed prior to doing the appraisal.

CMP is also agreeable to an annual payment rather than a lump sum payment with the annual payment adjusted annually by CPI. The initial payment will be the greater of \$1400 (\$35,000/25) or the appraised value/25. The lease may be extended for five years in the fifth year of the lease and every five years thereafter.

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I will check with our counsel regarding the language of paragraph 14, "Statutory Authority over Public Land" to see if he has alternative language for your consideration.

Let me know if I missed anything. Thanks for keeping this moving along.

Ken

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**Sent:** Friday, October 17, 2014 12:13 PM  
**To:** Freya, Kenneth H  
**Subject:** FW: Johnson Mtn. Appraisal

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**To:** Rodrigues, David  
**Subject:** RE: Johnson Mtn. Appraisal

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**Sent:** Friday, October 17, 2014 8:57 AM

**To:** Dan Dwyer ([dwyerassociates@midmaine.com](mailto:dwyerassociates@midmaine.com))

**Subject:** Johnson Mtn. Appraisal

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David

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**TRANSMISSION LINE LEASE**

**BETWEEN**

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**BUREAU DIVISION OF PARKS AND PUBLIC LANDS**

**And**

**CENTRAL MAINE POWER COMPANY**

~~This Lease Agreement is made by and between the State of Maine, by the Bureau of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, and being an a Three Hundred (300) foot wide by one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands property. Which The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:~~

~~This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the \_\_\_\_\_ Maine Public Reserved Lands in \_\_\_\_\_ County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a \_\_\_\_\_ ( ) foot wide by approximately \_\_\_\_\_ mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:~~

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall

be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under~~ to the provisions contained in paragraph ~~15~~ 13 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth ~~herein~~ in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

~~An annual payment of \$1,400.00 due on the date of execution of this lease (the "Initial Payment") and paid annually on or before December first of each following year. Lessor or Lessee may, within the first twelve months of the lease and at Lessor's or Lessee's sole discretion, commission an appraisal of the Premises. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal. Lessee shall also pay to Lessor the negotiated price of the timber present on the property based on mill scale and stumpage value, at time the corridor is harvested for the construction of a utility corridor. The annual payment shall be adjusted annually in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding one year period.~~

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~~A one time payment of Thirty five Thousand Dollars (\$35,000) an annual rent of \_\_\_\_\_ per year due on the date of execution of this lease. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) and each year thereafter for the initial five years, at which time and each five years thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.~~

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of ~~ethers and of the Lessor on~~ East Stream Road ~~\_\_\_\_\_ Road~~; to transmit electricity ~~and communication, as~~

conditioned below. over said wires, cables, or apparatus installed on Lessee's facilities. Communication use and facilities, shall only be for only Lessee's own use and for the Lessor approved Fairpoint/CMP communication contract. Lessee shall not sub-lease or contract the communication facilities for any commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

**Commented [DAR1]:** Only for CMP communication. Other Communication use on Premises and not located on Lessee's facilities is reserved by Lessor.

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4. Quiet Enjoyment. So long as Lessee pays the rent, ~~and~~ performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads ~~Road~~ for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through The Forest Management ~~Roads~~ at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management ~~Roads~~, Lessee must acquire prior written approval from Lessor. Lessee shall ~~also~~ acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises, ~~which~~ approval shall not be unreasonably withheld, delayed, or conditioned.

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**Commented [KHF2]:** This section of corridor does not appear to be accessed by a road located on the Public Lot

b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises ~~and~~ ~~Road~~ at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as ~~such uses~~ may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least three ~~3~~ business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

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6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. ~~Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliant~~, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliant registered for use in Maine may only be applied to the Premises only after acquiring prior written approval from Lessor and shall only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides, herbicides, and chemical defoliant to be used, dates and methods of application, application locations and reasons for use.
- d. There shall be no vegetation removal that would result in less than 50% ~~areal~~ aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height of approaching but not exceeding less than 15 feet, nor cut nor destroy any growth nor make any clearings except Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for safety purposes. Lessee shall make every effort to minimize clearings and cutting of vegetation.
- g. Lessee shall make every reasonable effort to be in conformance with the Maine Department of Inland Fisheries and Wildlife "Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects, Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects and Recommended Performance

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Commented [LP3]: Is the Bureau comfortable with the application of herbicides, pesticides, and chemical defoliant on public reserved land? Is there a legitimate reason why CMP cannot solely rely on cutting/mowing/etc. as the means of vegetation control? Are any streams, wetlands, vernal pools, etc. located down gradient of this property that could be impacted by run off?

Commented [LP4]: Leave in.

Standards for Riparian Buffers in Overhead Utility ROW Projects, all dated March 26, 2012 ~~Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler~~ document, dated January 2013, which a copy ~~is~~ are attached to this lease.

- h. Lessee ~~shall agree~~ not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities ~~ies~~.
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's ~~s~~ costs, including, but not limited to reasonable attorney's ~~s~~ fees.
- j. - No non-forest waste including but not limited to: broken equipment, spilt fuels, fluids and lubricants, fluid and lubricant containers, equipment parts, tires, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. - Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, ~~s~~ pole setting, wiring). At the time ~~the~~ construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 ~~and all roads shall be built pursuant to those Best Management Practices (BMPs) standards as used herein, are those pertaining to forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of~~

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Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease. -

— Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

l. Natural Plant Community, ~~and wetland and~~ Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to any construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.

**Commented [LP5]:** Is there any significant wildlife habitat on the property?

m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. — Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30906030 days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.

**Commented [LP6]:** NO!

CMP is responsible for and fully capable of obtaining all legally required permits in a timely fashion. Thirty days to cure a default that should not happen in the first instance is generous. Ninety days to seek to cure such failure (which falls short of actually curing) plus time to prosecute, plus time to cure afforded by ¶ 13(b) is excessive. If CMP fails to get a permit and is making a good faith effort to remedy any such failure, it can explain that to the Bureau and, because the Bureau is reasonable, successfully persuade the Bureau not to exercise its discretion to terminate this lease, pursuant to this paragraph and paragraph 13(b).

n. Lessee ~~agrees to~~ shall relocate the existing utility line (100-foot corridor lease AKA the Jackman Tie Line) on Lessor's Johnson Mountain and West Forks Plantation North East Maine Public Reserved Lands property onto this new corridor, from the point of intersection with the new corridor. The relocation of the Jackman Tie Line will take place at the time the new utility corridor is constructed. Upon completion of the relocation, Lessee agrees to terminate the existing lease with Lessor on the abandoned utility corridor section and ~~to remove~~ all of Lessee's facilities from the abandoned corridor section in accordance with the provisions of that lease.

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## 7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor immediately of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware



of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorney's fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

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c. -The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Lessor ~~Department~~ from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~ Upon execution of this Lease, the Lessee shall furnish the Lessor with ~~a~~ certificate of insurance as verification of the existence of such liability insurance policy.

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8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written ~~consent of Lessor,~~ which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of

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**Commented [LP7]:** This limits the Bureau's ability to withhold consent. Are you OK with that?

other utilities so long as such rights do not extend to access to the Facilities, ~~and~~ said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and~~ ~~that~~ such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.

11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.

12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and ~~charge the~~ Lessee shall reimburse Lessor for with the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing to not to remove ~~in writing it~~. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are impracticable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

Commented [LP8]: incapable?

13. Default.

a. The following ~~shall~~ constitute a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~ or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies or such other time as is required under any applicable circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written

consent; or (5) the violation of any state, federal or local laws, rules, regulations, or ordinances; or (6) Lessee's ~~shall~~ abandonment of the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period ~~(is there a cure period for 5 above?) as defined in paragraph 6-(m), above,~~ Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fees, incurred by reason of such default or termination hereof. ~~Prior to enforcement of any remedy permitted hereby, Lessor shall~~ will provide Lessee with written notice of an event or occurrence of default under ~~this section~~ paragraph 13-(a)(1) and Lessee shall have a reasonable period ~~as the circumstances~~ of time, as determined by Lessor, ~~as the circumstances giving rise to the default dictate to cure said default which period shall not exceed [ 9030 ] days; provided, however, that if Lessee has provided~~ satisfies to Lessor that Lessee with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period ~~shall be extended as applicable.~~

**Commented [DAR9]:** Lauren, does 90 days seem reasonable to you?

**Commented [LP10]:** NO, it seems excessive. Especially given the language that follows (and that Lessee gets an additional 30 days to cure circumstances covered by paragraph 6(m) (e.g., failure to obtain legally required permits)). Stick with 30 days max. If Lessee can satisfy to the Bureau that it is making a good faith effort to cure the default, the Bureau may exercise its discretion to give Lessee more time to cure, as opposed to terminating. If Lessee is not making a good faith effort, the Bureau does not want its hands tied for that long.

Also, having time to cure undermines the requirement in ¶ 15 requiring Lessee to immediately cause liens to be discharged.

**Commented [DAR11]:** Ken, Please send us what you recommend for modifications?

**Commented [LP12]:** I'd like to review any modification proposed by Lessee to this paragraph.

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. ~~[jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification]. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]~~
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorneys' fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or

partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.

17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and ~~Public~~-Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to
25. General Provisions:

**Commented [LP13]:** This needs to be filled in.

- a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
- b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
- c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**

Department of Agriculture, Conservation, and Forestry  
~~Bureau~~Division of Parks and ~~Public~~ Lands

By: \_\_\_\_\_  
~~Thomas Morrison Acting~~Willard R. Harris, Jr.,

Director

Dated: \_\_\_\_\_, 201~~4~~3

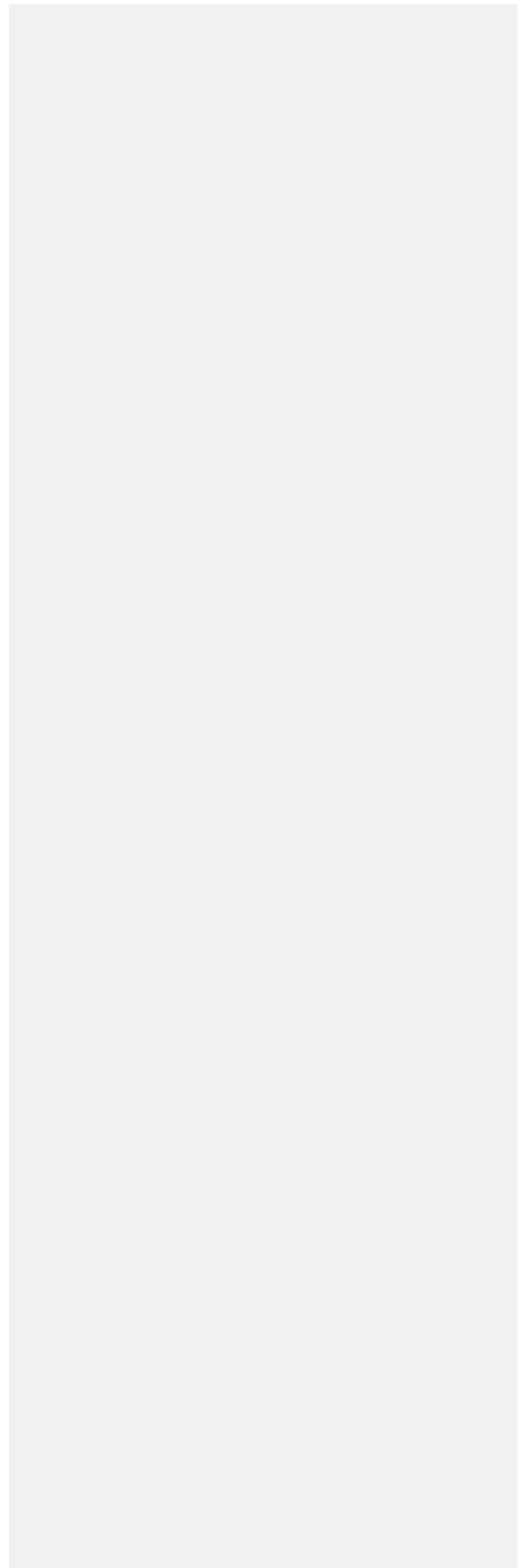
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Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

Witness





**TRANSMISSION LINE LEASE**

**BETWEEN**

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**BUREAU DIVISION OF PARKS AND PUBLIC LANDS**

**And**

**CENTRAL MAINE POWER COMPANY**

~~This Lease Agreement is made by and between the State of Maine, by the Bureau of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, and being an a Three Hundred (300) foot wide by one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands property. Which The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:~~

~~This Lease Agreement is made by and between the State of Maine, by the Division of Parks and Public Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 MRSA §1852(4), and \_\_\_\_\_, a company with its principal place of business at \_\_\_\_\_, (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of a portion of the \_\_\_\_\_ Maine Public Reserved Lands in \_\_\_\_\_ County, Maine, which property is described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein and being approximately a \_\_\_\_\_ ( ) foot wide by approximately \_\_\_\_\_ mile long transmission line corridor located on a portion of the property. Which, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property or Premises", subject to the following terms and conditions:~~

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall

be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof ~~with cause, pursuant to the extent permitted under~~ to the provisions contained in paragraph ~~15~~ 13 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth ~~herein~~ in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

An annual payment of \$1,400.00, the first payment shall be due on the date of execution of this lease (the "Initial Payment") and paid annually on or before December first of each following year. Lessor or Lessee may, within the first twelve months of the lease and at Lessor's or Lessee's sole discretion, commission an appraisal of the Premises. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal. The annual payment shall be adjusted each year in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding one year period.

In addition, Lessee shall pay to Lessor the negotiated price of the timber present on the Premises based on mill scale and stumpage value at time the corridor is harvested for the construction of the utility corridor.

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~~A one time payment of Thirty five Thousand Dollars (\$35,000) an annual rent of \_\_\_\_\_ per year due on the date of execution of this lease. Lessee may extend the lease for a five year period as provided in Item 1 (a), above by making a payment of Seven Thousand Dollars (\$7,000) and each year thereafter for the initial five years, at which time and each five years \_\_\_\_\_ thereafter the Lessor may adjust the annual rental in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding five year period.~~

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress

to and egress from the Premises over and across the land of ~~others and of the Lessor on East Stream Road~~ Road; to transmit electricity ~~and communication, as conditioned below~~; over said wires, cables, or apparatus installed on Lessee's facilities. Communication use and facilities, shall only be for only Lessee's own use and for Fairpoint Communications use under an approved contract with Lessee. Prior to installation of communication facilities on the Premises, Lessor shall approve Lessee's contract with Fairpoint Communications and Lessor shall also approve all contract modifications and amendments. Lessor may adjust the rent at the time there is a modification in the communication facilities or communication facilities use. The rent adjustment is to be determined by an appraisal paid for by Lessee. Lessee shall not sub-lease or contract the communication facilities for any other commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

**Commented [DAR1]:** Ken, I added some language dealing with the fairpoint communications. Please take a look and let me know what you think. Lauren our Attorney has not looked at this yet.

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4. Quiet Enjoyment. So long as Lessee pays the rent, and performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads ~~Road~~ for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management ~~Roads~~ at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season, or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management ~~Roads~~, Lessee must acquire prior written approval from Lessor. Lessee shall ~~also~~ acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises, which approval shall not be unreasonably withheld, delayed, or conditioned.

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**Commented [DAR2]:** I checked the aerials and there appears to be at least one management road that crosses the proposed corridor. When we go out we'll see if there are more?

**Commented [KHF3]:** This section of corridor does not appear to be accessed by a road located on the Public Lot

b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises and ~~Road~~ at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as ~~such uses~~ may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state

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law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least ~~three~~ business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. ~~Herbicides and pesticides shall not be used on the Premises.~~ No hazardous or toxic waste substance or material, ~~chemical defoliants~~, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliants registered for use in Maine may only be applied to the Premises only after acquiring prior written approval from Lessor and shall only be applied by applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides, herbicides, and chemical defoliants to be used, dates and methods of application, application locations and reasons for use.
- d. There shall be no vegetation removal that would result in less than 50% ~~areal~~aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height of approaching but not exceeding less than 15 feet, nor cut nor destroy any growth nor make any clearings except Lessee may cut vegetation using mechanical methods to meet the conductor safety zone requirements and for

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~~safety purposes.~~ Lessee shall make every effort to minimize clearings and cutting of vegetation.

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- g. Lessee shall make every reasonable effort to be in conformance with the Maine Department of Inland Fisheries and Wildlife "Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects, Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects and Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects, all dated March 26, 2012"~~Best Practices for Utility Corridor Construction and Maintenance on Division of Parks and Public Lands at Cutler"~~ document, dated January 2013, which ~~a copies are~~ attached to this lease.
- h. Lessee ~~shall agree~~ not to kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and ~~to the~~ appropriate authorities.
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's costs, including, but not limited to reasonable attorney's fees.
- j. ~~No non-forest waste, including but not limited to: broken equipment, spilt fuels, fluids and lubricants, fluid and lubricant containers, equipment parts, tires,~~ debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, ~~that~~ Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time ~~the~~ construction is completed, all temporary roads and trails shall be

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dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the “Maine Motorized Trail Construction and Maintenance Manual” written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 ~~and all roads shall be built pursuant to those Best Management Practices (BMPs) standards as used herein, are those pertaining to forest management and road construction practices set forth in the publication entitled, “Best Management Practices for Forestry: Protecting Maine’s Water Quality,” prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication’s most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.~~

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— Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

l. Natural Plant Community, ~~and wetland and~~ Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee’s designee prior to any construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.

m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. — Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30906030 days in which to seek to cure such failure, and shall be permitted a reasonable period of time thereafter to prosecute and obtain any such necessary permits. No termination hereunder shall be permitted during the pendency of any pending permitting application process, proceedings or appeals relating thereto.

Commented [LP5]: NO!

CMP is responsible for and fully capable of obtaining all legally required permits in a timely fashion. Thirty days to cure a default that should not happen in the first instance is generous. Ninety days to seek to cure such failure (which falls short of actually curing) plus time to prosecute, plus time to cure afforded by ¶ 13(b) is excessive. If CMP fails to get a permit and is making a good faith effort to remedy any such failure, it can explain that to the Bureau and, because the Bureau is reasonable, successfully persuade the Bureau not to exercise its discretion to terminate this lease, pursuant to this paragraph and paragraph 13(b).

n. Lessee ~~agrees to~~ shall relocate the existing utility line (100-foot corridor lease AKA the Jackman Tie Line) on Lessor’s Johnson Mountain and West Forks Plantation North East Maine Public Reserved Lands property onto this new corridor, from the point of intersection with the new corridor. The relocation of the Jackman Tie Line will take place at the time the new utility corridor is constructed. Upon completion of the relocation, Lessee agrees to terminate the existing lease with Lessor on the abandoned utility corridor section and ~~to remove~~

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all of Lessee's facilities from the abandoned corridor section in accordance with the provisions of that lease.

7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor ~~immediately~~ of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

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b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorneys' fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

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c. ~~The Lessee shall~~ obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the ~~Lessor~~ Department from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. ~~Upon execution~~ Upon execution of this Lease, the Lessee shall furnish the Lessor with ~~a~~ certificate of insurance as verification of the existence of such liability insurance policy.

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8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.

9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.

10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, ~~which consent shall not be unreasonably withheld.~~ Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, ~~and~~ said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, ~~and that~~ such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.

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11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.

12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and ~~charge the~~ Lessee shall reimburse Lessor for ~~with~~ the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing ~~to not to remove~~ ~~in writing~~ it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are ~~incapable~~ ~~impracticable~~ of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

13. Default.

a. The following ~~shall~~ constitutes a default under this Lease: (1) Lessee's failure to perform any of its monetary ~~and~~ or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy ~~or~~ insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or

attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies or such other time as is required under any applicable circumstance, law or proceeding for the removal thereof; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local laws, rules, regulations, or ordinances; or (6) Lessee's ~~shall~~ abandonment of the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period ~~(is there a cure period for 5 above?)~~ as defined in paragraph 6-(m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney's fees, incurred by reason of such default or termination hereof. ~~Prior to enforcement of any remedy permitted hereby, Lessor shall will provide Lessee with written notice of an event or occurrence of default under this section paragraph 13-(a)(1) and Lessee shall have a reasonable period as the circumstances of time, as determined by Lessor, as the circumstances giving rise to the default dictate to cure said default which period shall not exceed [ 90/30 ] days; provided, however, that if Lessee has provided/satisfies to Lessor that Lessee with satisfactory assurance that it has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period shall be extended as applicable.~~

**Commented [DAR6]:** Lauren, does 90 days seem reasonable to you?

**Commented [LP7]:** NO, it seems excessive. Especially given the language that follows (and that Lessee gets an additional 30 days to cure circumstances covered by paragraph 6(m) (e.g., failure to obtain legally required permits)). Stick with 30 days max. If Lessee can satisfy to the Bureau that it is making a good faith effort to cure the default, the Bureau may exercise its discretion to give Lessee more time to cure, as opposed to terminating. If Lessee is not making a good faith effort, the Bureau does not want its hands tied for that long.

Also, having time to cure undermines the requirement in ¶ 15 requiring Lessee to immediately cause liens to be discharged.

**Commented [DAR8]:** Ken, Please send us what you recommend for modifications?

**Commented [LP9]:** I'd like to review any modification proposed by Lessee to this paragraph.

14. Statutory Authority Over Public Lands. Lessor retains the right to revise this lease, from time to time and throughout the term of this lease in order to be in compliance with State Law. Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to terminate the lease. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]

15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on

behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorney's fees that Lessor may incur in connection with the same.

16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by ~~current~~presently or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.

24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and ~~Public~~-Lands, 22 State House Station, Augusta, ME 04333-0022, Attn: Director; and if to Lessee, to \_\_\_\_\_

**Commented [LP10]:** This needs to be filled in.

25. General Provisions:

- a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
- b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
- c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**

Department of Agriculture, Conservation, and Forestry  
~~Bureau~~Division of Parks and ~~Public~~ Lands

By: \_\_\_\_\_  
~~Thomas Morrison Acting~~Willard R. Harris, Jr.,

Director

Dated: \_\_\_\_\_, 201~~4~~3

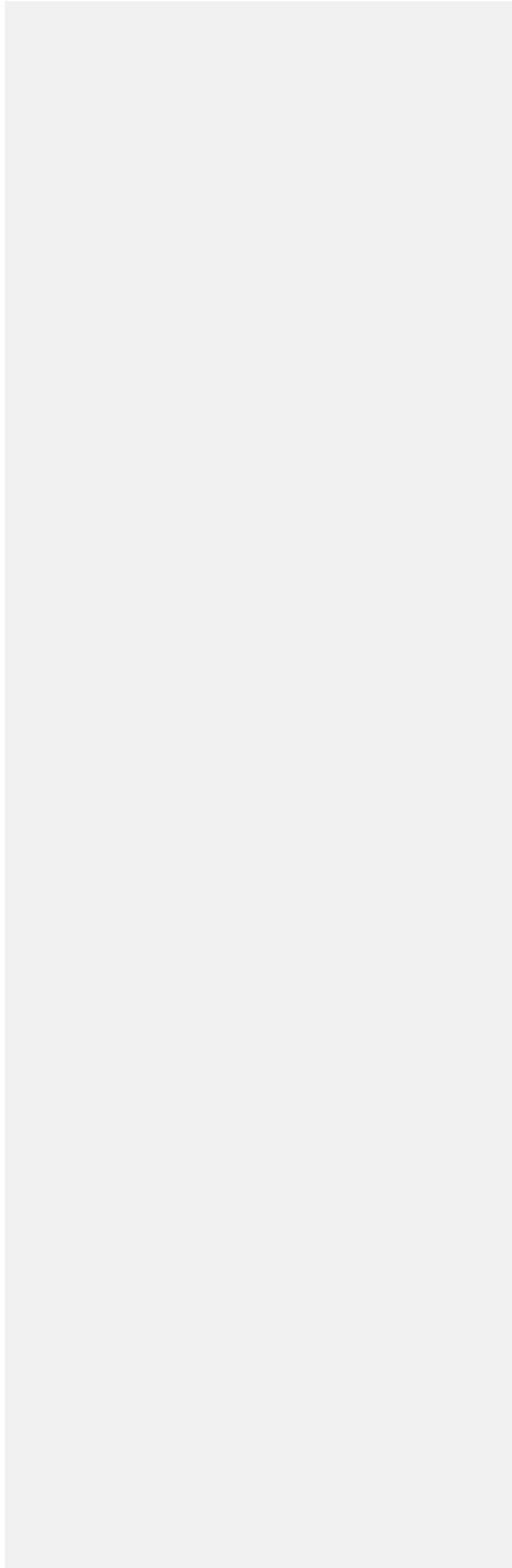
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Witness

Lessee:

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness



**From:** [Freye, Kenneth H](#)  
**To:** [Rodrigues, David](#)  
**Subject:** Draft Lease CMP-BPL 10-23-14 KHf.docx  
**Date:** Thursday, October 23, 2014 10:34:14 AM  
**Attachments:** [Draft Lease CMP-BPL 10-23-14 KHf.docx](#)

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David,

Attached is the BPL - CMP lease with CMP's mark-ups. For simplicity, I accepted all of your changes, deleted the comments and then added the CMP changes in red-line. Many of the changes are spacing/typos. Regarding the substantive changes:

Section 3 Use:

CMP is not planning to provide communication capacity to third party users at this time. The revised language provides for doing this in the future under the BPL's terms.

Section 6c (herbicide application)

The language has been changed to conform with the IF&W standards and current practice.

Section 6g (IF&W standards)

Other than on the MPRP Project, MDEP has not adopted the various IF&W standards as part of CMP transmission line permits. CMP is agreeable to using these standards on this lease but needs to clarify that the IF&W standards apply only to the leased premises.

Section 6n (Jackman Tie Line)

CMP is willing to consider relocating the Jack man Tie Line but cannot commit to doing so at this time due to cost and unknowns in the regulatory and permitting areas.

Section 14 Statutory Authority Over Public Lands:

The original language was very broad and gave CMP only a the option to terminate or accept the amended lease as presented by BPL. The revised language limits this section to changes in Maine law pertaining to the lease of public land. CMP would, of course, have to comply with any other changes in Maine law but would do so under the auspices of the appropriate agency or regulatory authority. The need to negotiate an amendment is necessary because there are often many possible solutions and CMP should not be forced into arbitrarily accepting the one chosen by BPL.

Please call if you have questions on any of the above.

Ken

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**TRANSMISSION LINE LEASE**  
**BETWEEN**  
**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**  
**BUREAU OF PARKS AND LANDS**  
**And CENTRAL MAINE POWER COMPANY**

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This Lease Agreement is made by and between the State of Maine, by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, being a three hundred (300) foot wide by one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands. The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:

1. Term:

- a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.
- b. Lessor reserves the right to terminate this Lease at any time during the term hereof to the extent permitted under the provisions contained in paragraph 13 Default.
- c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.
- d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

An annual payment of \$1,400.00, the first payment shall be due on the date of execution of this lease ~~-(the “Initial Payment”)~~ and paid annually on or before December first of each following year. Lessor or Lessee may, within the first twelve months of the lease and at Lessor’s or Lessee’s sole discretion, commission an appraisal of the Premises. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal. The annual payment shall be adjusted each year in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding one year period.

In addition, Lessee shall pay to Lessor the negotiated price of the timber present on the Premises based on mill scale and stumpage value at time the corridor is harvested for the construction of the utility corridor.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity (“Facilities”), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of the Lessor~~—————~~; to transmit electricity and communication, as conditioned below, over said wires, cables, or apparatus installed on Lessee’s facilities. Lessee shall own all communication facilities and such facilities shall be for Lessee’s use in its business as a public utility. In the event Lessee desires to provide capacity to others on Lessee’s communication facilities, Lessee shall first obtain Lessor’s written approval, which shall not be unreasonably withheld. Lessor may adjust the rent at such time as Lessee provides communication capacity to others. ~~Communication use and facilities, shall be for only Lessee’s own use and for Fairpoint Communications use under an approved contract with Lessee. Prior to installation of communication facilities on the Premises, Lessor shall approve Lessee’s contract with Fairpoint Communications and Lessor shall also approve all contract modifications and amendments. Lessor may adjust the rent at the time there is a modification in the communication facilities or communication facilities use.~~ The rent adjustment is to be determined by an appraisal paid for by Lessee. Lessee shall not sub-lease or contract the communication facilities for any other commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.
4. Quiet Enjoyment. So long as Lessee pays the rent, performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee’s

possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

- a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management Roads at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management Roads, Lessee must acquire prior written approval from Lessor. Lessee shall acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises which approval shall not be unreasonably withheld, delayed, or conditioned.
  
- b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as such uses may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least three business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

**Commented [DAR1]:** I checked the aerials and there appears to be at least one management road that crosses the proposed corridor. When we go out we'll see if there are more?

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
  
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
  
- c. No hazardous or toxic waste substance or material, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliants registered for use in Maine may be applied to the Premises only after acquiring prior written approval from

Lessor and only by trained applicators working under the supervision of applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides, herbicides, and chemical defoliant to be used, dates and methods of application, application locations and reasons for use.

- d. There shall be no vegetation removal that would result in less than 50% aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height approaching but not exceeding 15 feet. Lessee shall make every effort to minimize clearings and cutting of vegetation.
- g. Lessee acknowledges that lease of the Premises and by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry is unique, and that in authorizing the Lease under 12 M.-R.S. § 1852(4)(A), Lessor requires that Lessee shall make every reasonable effort within the leased Premises to be in conformance with the Maine Department of Inland Fisheries and Wildlife "Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects", "Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects", and "Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects", all dated March 26, 2012, which copies are attached to this lease.
- h. Lessee shall not kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or

groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's costs, including, but not limited to reasonable attorney fees.

- j. No non-forest waste including but not limited to broken equipment, spilt fuels, fluids and lubricants, fluid and lubricant containers, equipment parts, tires, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 and all roads shall be built pursuant to those Best Management Practices (BMPs) standards pertaining to forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.

—Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community, wetland and Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to any construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all

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necessary permits and licenses have been obtained for such construction, alteration or operation. Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30 days in which to cure such failure.

**Commented [LP2]: NO!**

- n. In the event Lessee constructs an electric transmission line on the Premises, Lessee agrees to enter into discussions with Lessor regarding the relocation of that part of the existing 100-foot wide utility corridor described in a lease dated July 9, 1963 and recorded in the Somerset County Registry of Deeds in Book 679, Page 37 (the "Jackman Tie Line Lease") located westerly of the Premises. Lessor and Lessee agree that the relocation of the above described facilities will only occur if such relocation is cost effective for Lessee given other alternatives for addressing the electrical reliability of the Jackman area. In that event that the Jackman Tie Line is relocated pursuant to this section, upon completion of any such relocation of the Jackman Tie Line or its functional replacement and removal of Lessee's facilities from that portion of the Jackman Tie Line Lease lying westerly of the Premises, Lessor and Lessee agree to amend the Jackman Tie Line Lease to delete from the lease area that portion of the Jackman Tie Line Lease lying westerly of the Premises. All other terms and conditions of the Jackman Tie Line Lease shall remain in full force and effect.

~~Lessee shall relocate the existing utility line (100-foot corridor lease AKA the Jackman Tie Line) on Lessor's Johnson Mountain and West Forks Plantation North East Maine Public Reserved Lands property onto this new corridor, from the point of intersection with the new corridor. The relocation of the Jackman Tie Line will take place at the time the new utility corridor is constructed. Upon completion of the relocation, Lessee agrees to terminate the existing lease with Lessor on the abandoned utility corridor section and remove all of Lessee's facilities from the abandoned corridor section in accordance with the provisions of that lease.~~

CMP is responsible for and fully capable of obtaining all legally required permits in a timely fashion. Thirty days to cure a default that should not happen in the first instance is generous. Ninety days to seek to cure such failure (which falls short of actually curing) plus time to prosecute, plus time to cure afforded by ¶ 13(b) is excessive. If CMP fails to get a permit and is making a good faith effort to remedy any such failure, it can explain that to the Bureau and, because the Bureau is reasonable, successfully persuade the Bureau not to exercise its discretion to terminate this lease, pursuant to this paragraph and paragraph 13(b).

## 7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall

indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorney fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Lessor from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. Upon execution of this Lease, the Lessee shall furnish the Lessor with a certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, and such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.

11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and Lessee shall reimburse Lessor for the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing not to remove it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are incapable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.
13. Default.
  - a. The following constitutes a default under this Lease: (1) Lessee's failure to perform any of its monetary or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy or insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local law, rule, regulation, or ordinance; or (6) Lessee's abandonment of the leased premises.
  - b. Upon the occurrence of any such event of default and subject to any applicable cure period as defined in paragraph 6(m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney fees, incurred by reason of such default or termination hereof. Lessor will provide Lessee with written notice of an event or occurrence of

default under paragraph 13(a)(1) and Lessee shall have a reasonable period of time, as determined by Lessor, to cure said default which period shall not exceed ~~thirty (30)~~ days; provided, however, that if Lessee satisfies to Lessor that Lessee has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period.

14. Statutory Authority Over Public Lands. Lessor ~~shall have the right to request that this Lease be amended retains the right to revise this lease,~~ from time to time and throughout the term of this lease in ~~the event that any Lease term is found not to comply with Maine order to be in compliance with~~ State Law ~~regarding the lease of property under 12 M.R.S. § 1852 (4).~~ Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to ~~either terminate the Lease by notifying Lessor in writing within thirty (30) days of receipt of notice or negotiate an amendment to the Lease in order to bring such term in compliance with said State law. Except as provided in this Lease, neither Party shall have the right to terminate this lease unless the resulting non-compliance constitutes a default under Section 13 hereof, in which case Section 13 shall govern. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]~~
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorney fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or

**Commented [LP3]:** I'd like to review any modification proposed by Lessee to this paragraph.

default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.

18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by current or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to:  
\_\_\_\_ **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Lands,  
\_\_\_\_ 22 State House Station, Augusta, ME 04333-0022, Attn: Director;  
and if to Lessee, to:  
\_\_\_\_ **Central Maine Power Company, Real Estate Services**  
\_\_\_\_ **83 Edison Drive, Augusta, Maine 04364, Attn. Supervisor, Real Estate**  
\_\_\_\_\_  
\_\_\_\_\_
25. General Provisions:
  - a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.

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- b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
- c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
 Department of Agriculture, Conservation, and Forestry  
 Bureau of Parks and -Lands

By: \_\_\_\_\_  
 Thomas Morrison Acting Director

Dated: \_\_\_\_\_, 2014

\_\_\_\_\_  
 Witness

Lessee:

\_\_\_\_\_  
**CENTRAL MAINE**  
**POWER COMPANY**

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BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
 Witness





## Koyanagi, Gayle

---

**From:** Freye, Kenneth H <Kenneth.Freye@cmpco.com>  
**Sent:** Monday, October 27, 2014 4:36 PM  
**To:** Rodrigues, David  
**Subject:** Johnson Mountain-West Forks Plantation Lease

David,

Were you able to make the trip to West Forks last week or did you get rained out again?

Do you have any thoughts or comments on the edits to the lease that I sent over on Thursday? We have a conference call with CMP tomorrow afternoon and I am sure there will be questions so any input is appreciated.

Ken

*Ken Freye*



*Agency Office - 79 Old Winthrop Road, Augusta, ME 04332 (207) 621.0600*

Kenneth Freye

*Maine Real Estate License #Br 108067*

Project Manager, Capital Projects, Real Estate Services – CMP Projects

83 Edison Drive, Augusta, ME 04336

Telephone 207.621.4753

Cell 207.629.7700

[kenneth.freye@CMPCO.com](mailto:kenneth.freye@CMPCO.com)

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## Koyanagi, Gayle

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**From:** Freye, Kenneth H <Kenneth.Freye@cmpco.com>  
**Sent:** Monday, October 27, 2014 5:05 PM  
**To:** Rodrigues, David  
**Subject:** RE: Johnson Mountain-West Forks Plantation Lease

David,  
Third time is a charm. Let me know if you have questions once you look at the lease.  
Ken

---

**From:** Rodrigues, David [mailto:David.Rodrigues@maine.gov]  
**Sent:** Monday, October 27, 2014 5:04 PM  
**To:** Freye, Kenneth H  
**Subject:** RE: Johnson Mountain-West Forks Plantation Lease

We were rained out and are going out this Thursday. Weather looks good for this week. Still have not had a chance to look at your changes yet, but was hoping to look at them tomorrow.

Thanks for checking in,  
David

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**From:** Freye, Kenneth H [mailto:Kenneth.Freye@cmpco.com]  
**Sent:** Monday, October 27, 2014 4:36 PM  
**To:** Rodrigues, David  
**Subject:** Johnson Mountain-West Forks Plantation Lease

David,  
Were you able to make the trip to West Forks last week or did you get rained out again?  
Do you have any thoughts or comments on the edits to the lease that I sent over on Thursday? We have a conference call with CMP tomorrow afternoon and I am sure there will be questions so any input is appreciated.  
Ken

*Ken Freye*



*Agency Office - 79 Old Winthrop Road, Augusta, ME 04332 (207) 621.0600*

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Maine Real Estate License #Br 108067  
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Cell 207.629.7700  
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=====

## Koyanagi, Gayle

---

**From:** Rodrigues, David  
**Sent:** Monday, November 3, 2014 5:06 PM  
**To:** Morrison, Tom; Eickenberg, Katherine; Smith, Peter D.  
**Subject:** FW: Draft Lease Johnson Mtn. - West Forks Utility corridor  
**Attachments:** Draft Lease CMP-BPL 10-23-14 KHF.docx

Tom, Kathy and Pete,

We have gone through a few drafts of this lease and are now close to having a final draft. Lauren is also now reviewing it for the second time. The appraiser is on board and CMP will be contracting and paying for the appraisal. The appraiser, Andy Cutko and I walked the corridor last Thursday and found no natural communities of concern. The location of the crossing of Tomhegan Stream is of concern. The majority of the trees in this location are mostly large trees, so when the corridor is cut for the utility corridor, the stream will be entirely unshaded for the 300 foot width of the corridor. Tomhegan Stream empties into Cold Stream and is an important Trout Stream. CMP is looking into moving the corridor so that it does not cross Tomhegan Stream on the Public Lands, but it would still have to cross the stream farther South and closer to Cold Stream. I will research this crossing more with IFW.

Please review and let me know if we have missed anything and if we are ready to move forward.

David

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**From:** Freye, Kenneth H [<mailto:Kenneth.Freye@cmpco.com>]  
**Sent:** Thursday, October 23, 2014 10:34 AM  
**To:** Rodrigues, David  
**Subject:** Draft Lease CMP-BPL 10-23-14 KHF.docx

David,

Attached is the BPL - CMP lease with CMP's mark-ups. For simplicity, I accepted all of your changes, deleted the comments and then added the CMP changes in red-line. Many of the changes are spacing/typos. Regarding the substantive changes:

Section 3 Use:

CMP is not planning to provide communication capacity to third party users at this time. The revised language provides for doing this in the future under the BPL's terms.

Section 6c (herbicide application)

The language has been changed to conform with the IF&W standards and current practice.

Section 6g (IF&W standards)

Other than on the MPRP Project, MDEP has not adopted the various IF&W standards as part of CMP transmission line permits. CMP is agreeable to using these standards on this lease but needs to clarify that the IF&W standards apply only to the leased premises.

Section 6n (Jackman Tie Line)

CMP is willing to consider relocating the Jack man Tie Line but cannot commit to doing so at this time due to cost and unknowns in the regulatory and permitting areas.

Section 14 Statutory Authority Over Public Lands:

The original language was very broad and gave CMP only a the option to terminate or accept the amended lease as presented by BPL. The revised language limits this section to changes in Maine law pertaining to the lease of public land. CMP would, of course, have to comply with any other changes in Maine law but would do so under the auspices of the appropriate agency or regulatory authority. The need to negotiate an amendment is necessary because there are often many possible solutions and CMP should not be forced into arbitrarily accepting the one chosen by BPL.

Please call if you have questions on any of the above.

Ken

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**TRANSMISSION LINE LEASE**  
**BETWEEN**  
**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**  
**BUREAU OF PARKS AND LANDS**  
**And CENTRAL MAINE POWER COMPANY**

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This Lease Agreement is made by and between the State of Maine, by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor") acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, being a three hundred (300) foot wide by one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands. The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:

1. Term:

- a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.
- b. Lessor reserves the right to terminate this Lease at any time during the term hereof to the extent permitted under the provisions contained in paragraph 13 Default.
- c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.
- d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

An annual payment of \$1,400.00, the first payment shall be due on the date of execution of this lease ~~-(the "Initial Payment")~~ and paid annually on or before December first of each following year. Lessor or Lessee may, within the first twelve months of the lease and at Lessor's or Lessee's sole discretion, commission an appraisal of the Premises. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal. The annual payment shall be adjusted each year in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding one year period.

In addition, Lessee shall pay to Lessor the negotiated price of the timber present on the Premises based on mill scale and stumpage value at time the corridor is harvested for the construction of the utility corridor.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of the Lessor ~~\_\_\_\_\_~~; to transmit electricity and communication, as conditioned below, over said wires, cables, or apparatus installed on Lessee's facilities. Lessee shall own all communication facilities and such facilities shall be for Lessee's use in its business as a public utility. In the event Lessee desires to provide capacity to others on Lessee's communication facilities, Lessee shall first obtain Lessor's written approval, which shall not be unreasonably withheld. Lessor may adjust the rent at such time as Lessee provides communication capacity to others. ~~Communication use and facilities, shall be for only Lessee's own use and for Fairpoint Communications use under an approved contract with Lessee. Prior to installation of communication facilities on the Premises, Lessor shall approve Lessee's contract with Fairpoint Communications and Lessor shall also approve all contract modifications and amendments. Lessor may adjust the rent at the time there is a modification in the communication facilities or communication facilities use.~~ The rent adjustment is to be determined by an appraisal paid for by Lessee. Lessee shall not sub-lease or contract the communication facilities for any other commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.
4. Quiet Enjoyment. So long as Lessee pays the rent, performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's

possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

- a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management Roads at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management Roads, Lessee must acquire prior written approval from Lessor. Lessee shall acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises which approval shall not be unreasonably withheld, delayed, or conditioned.
- b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as such uses may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least three business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

**Commented [DAR1]:** I checked the aerials and there appears to be at least one management road that crosses the proposed corridor. When we go out we'll see if there are more?

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. No hazardous or toxic waste substance or material, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliant registered for use in Maine may be applied to the Premises only after acquiring prior written approval from

Lessor and only by trained applicators working under the supervision of applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides, herbicides, and chemical defoliant to be used, dates and methods of application, application locations and reasons for use.

- d. There shall be no vegetation removal that would result in less than 50% aerial coverage of woody vegetation and stream shading within 25-feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height approaching but not exceeding 15 feet. Lessee shall make every effort to minimize clearings and cutting of vegetation.
- g. Lessee acknowledges that lease of the Premises and by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry is unique, and that in authorizing the Lease under 12 M.-R.S. § 1852(4)(A), Lessor requires that Lessee shall make every reasonable effort within the leased Premises to be in conformance with the Maine Department of Inland Fisheries and Wildlife "Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects", "Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects", and "Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects", all dated March 26, 2012, which copies are attached to this lease.
- h. Lessee shall not kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or

groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's costs, including, but not limited to reasonable attorney fees.

- j. No non-forest waste including but not limited to broken equipment, spilt fuels, fluids and lubricants, fluid and lubricant containers, equipment parts, tires, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 and all roads shall be built pursuant to those Best Management Practices (BMPs) standards pertaining to forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.

—Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community, wetland and Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to any construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all

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necessary permits and licenses have been obtained for such construction, alteration or operation. Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30 days in which to cure such failure.

**Commented [LP2]: NO!**

- n. In the event Lessee constructs an electric transmission line on the Premises, Lessee agrees to enter into discussions with Lessor regarding the relocation of that part of the existing 100-foot wide utility corridor described in a lease dated July 9, 1963 and recorded in the Somerset County Registry of Deeds in Book 679, Page 37 (the "Jackman Tie Line Lease") located westerly of the Premises. Lessor and Lessee agree that the relocation of the above described facilities will only occur if such relocation is cost effective for Lessee given other alternatives for addressing the electrical reliability of the Jackman area. In that event that the Jackman Tie Line is relocated pursuant to this section, upon completion of any such relocation of the Jackman Tie Line or its functional replacement and removal of Lessee's facilities from that portion of the Jackman Tie Line Lease lying westerly of the Premises, Lessor and Lessee agree to amend the Jackman Tie Line Lease to delete from the lease area that portion of the Jackman Tie Line Lease lying westerly of the Premises. All other terms and conditions of the Jackman Tie Line Lease shall remain in full force and effect.

~~Lessee shall relocate the existing utility line (100-foot corridor lease AKA the Jackman Tie Line) on Lessor's Johnson Mountain and West Forks Plantation North East Maine Public Reserved Lands property onto this new corridor, from the point of intersection with the new corridor. The relocation of the Jackman Tie Line will take place at the time the new utility corridor is constructed. Upon completion of the relocation, Lessee agrees to terminate the existing lease with Lessor on the abandoned utility corridor section and remove all of Lessee's facilities from the abandoned corridor section in accordance with the provisions of that lease.~~

CMP is responsible for and fully capable of obtaining all legally required permits in a timely fashion. Thirty days to cure a default that should not happen in the first instance is generous. Ninety days to seek to cure such failure (which falls short of actually curing) plus time to prosecute, plus time to cure afforded by ¶ 13(b) is excessive. If CMP fails to get a permit and is making a good faith effort to remedy any such failure, it can explain that to the Bureau and, because the Bureau is reasonable, successfully persuade the Bureau not to exercise its discretion to terminate this lease, pursuant to this paragraph and paragraph 13(b).

## 7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall



indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorney fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Lessor from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. Upon execution of this Lease, the Lessee shall furnish the Lessor with a certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, and such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.

11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and Lessee shall reimburse Lessor for the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing not to remove it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are incapable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.
13. Default.
  - a. The following constitutes a default under this Lease: (1) Lessee's failure to perform any of its monetary or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy or insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local law, rule, regulation, or ordinance; or (6) Lessee's abandonment of the leased premises.
  - b. Upon the occurrence of any such event of default and subject to any applicable cure period as defined in paragraph 6(m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney fees, incurred by reason of such default or termination hereof. Lessor will provide Lessee with written notice of an event or occurrence of

default under paragraph 13(a)(1) and Lessee shall have a reasonable period of time, as determined by Lessor, to cure said default which period shall not exceed ~~thirty (30)~~ days; provided, however, that if Lessee satisfies to Lessor that Lessee has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period.

14. Statutory Authority Over Public Lands. Lessor ~~shall have the right to request that this Lease be amended retains the right to revise this lease,~~ from time to time and throughout the term of this lease in ~~the event that any Lease term is found not to comply with Maine, order to be in compliance with~~ State Law ~~regarding the lease of property under 12 M.R.S. § 1852 (4).~~ Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to ~~either terminate the Lease by notifying Lessor in writing within thirty (30) days of receipt of notice or negotiate an amendment to the Lease in order to bring such term in compliance with said State law. Except as provided in this Lease, neither Party shall have the right to terminate this lease unless the resulting non-compliance constitutes a default under Section 13 hereof, in which case Section 13 shall govern. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate. [jlc note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]~~
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorney fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or

**Commented [LP3]:** I'd like to review any modification proposed by Lessee to this paragraph.

default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.

18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by current or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to:  
\_\_\_\_ **State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Lands,  
\_\_\_\_ 22 State House Station, Augusta, ME 04333-0022, Attn: Director;  
and if to Lessee, to:  
\_\_\_\_ **Central Maine Power Company, Real Estate Services**  
\_\_\_\_ **83 Edison Drive, Augusta, Maine 04364, Attn. Supervisor, Real Estate**  
\_\_\_\_
25. General Provisions:
  - a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.

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- b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
- c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
 Department of Agriculture, Conservation, and Forestry  
 Bureau of Parks and -Lands

By: \_\_\_\_\_  
 Thomas Morrison Acting Director

Dated: \_\_\_\_\_, 2014

\_\_\_\_\_  
 Witness

Lessee:

\_\_\_\_\_  
**CENTRAL MAINE**  
**POWER COMPANY**

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BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
 Witness



## Koyanagi, Gayle

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**From:** Freye, Kenneth H <Kenneth.Freye@cmpco.com>  
**Sent:** Monday, November 3, 2014 4:46 PM  
**To:** Rodrigues, David  
**Cc:** Freye, Kenneth H  
**Subject:** Google Earth Image  
**Attachments:** GoogleEarth\_Image.jpg

David,

I will have to discuss moving the corridor centerline at Tomhegan Stream to the northeast with the transmission design engineers. There is not a lot of room between the corner of the PCT land (which is in a conservation easement) and the stream, particularly if we want to relocate the Jackman Tie Line in the future. It may be possible to move the centerline to the west so that it does not cross Tomhegan Stream on the Public Lots. Doing this also avoids crossing the outlet stream from Wilson Hill Pond and shortens the distance across State land slightly. Let me know your thoughts on this.

Ken

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**TRANSMISSION LINE LEASE**

**BETWEEN**

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**BUREAU OF PARKS AND LANDS**

**and CENTRAL MAINE POWER COMPANY**

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This Lease Agreement is made by and between the State of Maine, by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor"), acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, being a three hundred (300) foot wide by one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands. The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:

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1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and, at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request a lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof to the extent permitted under the provisions contained in paragraph 13 Default.

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c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

An annual payment of \$1,400.00~~,-~~. ~~The~~ first payment shall be due on the date of execution of this lease (the "Initial Payment") and subsequent annual payments shall be made paid annually on or before December first of each following year. Lessor or Lessee may, within the first twelve months of the lease and at ~~either~~ Lessor's or Lessee's sole discretion, commission an appraisal of the Premises. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal. The annual payment shall be adjusted each year in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding one year period.

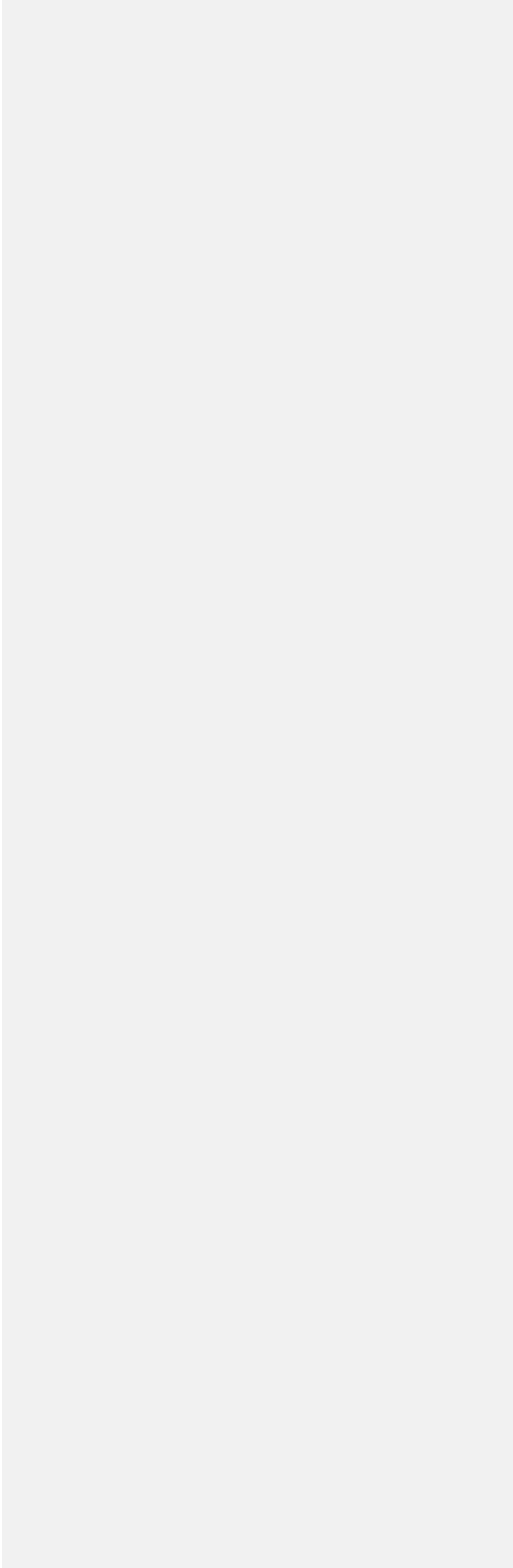
In addition, Lessee shall pay to Lessor the negotiated price of the timber present on the Premises based on mill scale and stumpage value at time the corridor is harvested for the construction of the utility corridor.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of the Lessor~~\_\_\_\_\_~~; to transmit electricity and communication, as conditioned below, over said wires, cables, or apparatus installed on Lessee's facilities. Lessee shall own all communication facilities and such facilities shall be for Lessee's use in its business as a public utility. In the event Lessee desires to provide capacity to others on Lessee's communication facilities, Lessee shall first obtain Lessor's written approval, which shall not be unreasonably withheld. Lessor may adjust the rent at such time as Lessee provides communication capacity to others. ~~Communication use and facilities, shall be for only Lessee's own use and for Fairpoint Communications use under an approved contract with Lessee. Prior to installation of communication facilities on the Premises, Lessor shall approve Lessee's contract with Fairpoint Communications and Lessor shall also approve all contract modifications and amendments. Lessor may adjust the rent at the time there is a modification in the communication facilities or communication facilities use.~~ The rent adjustment is to be determined by an appraisal paid for by Lessee. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee shall not sub-lease or contract the communication facilities for any other commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.

**Commented [LP1]:** Bureau OK with this?

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4. Quiet Enjoyment. So long as Lessee pays the rent, performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.





5. Access:

- a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management Roads at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management Roads, Lessee must acquire prior written approval from Lessor. Lessee shall acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises which approval shall not be unreasonably withheld, delayed, or conditioned.
- b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as such uses may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least three business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

**Commented [DAR2]:** I checked the aerals and there appears to be at least one management road that crosses the proposed corridor. When we go out we'll see if there are more?

**Commented [LP3]:** If it turns out that there is only one, make this singular.

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. No hazardous or toxic waste substance or material, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliant registered for use in Maine may be applied to the Premises only after acquiring prior written approval from Lessor and only by trained applicators working under the supervision of applicators

licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides, herbicides, and chemical defoliant to be used, dates and methods of application, application locations and reasons for use.

- d. There shall be no vegetation removal that would result in less than 50% aerial coverage of woody vegetation and stream shading within 25 feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height approaching but not exceeding 15 feet. Lessee shall make every effort to minimize clearings and cutting of vegetation.
- g. Lessee acknowledges that lease of the Premises~~land~~ by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry is unique, and that in authorizing the Lease under 12 M.-R.S. § 1852(4)(A), Lessor requires that Lessee shall make every reasonable effort within the leased Premises to be in conformance with the Maine Department of Inland Fisheries and Wildlife "Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects", "Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects", and "Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects", all dated March 26, 2012", which copies are attached to this lease.
- h. Lessee shall not kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities.
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any

noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's costs, including, but not limited to reasonable attorney fees.

- j. No non-forest waste including, but not limited to, broken equipment, spilt fuels, fluids and lubricants, fluid and lubricant containers, equipment parts, tires, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011, and all roads shall be built pursuant to those Best Management Practices (BMPs) standards pertaining to forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.
  - Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.
- l. Natural Plant Community, wetland and Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to any construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction,

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alteration or operation. Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30 days in which to cure such failure.

- n. In the event Lessee constructs an electric transmission line on the Premises, Lessee agrees to enter into discussions with Lessor regarding the relocation of that part of the existing 100-foot wide utility corridor described in a lease dated July 9, 1963 and recorded in the Somerset County Registry of Deeds, ~~in~~ Book 679, Page 37 (the "Jackman Tie Line Lease") located westerly of the Premises. Lessor and Lessee agree that the relocation of the above described facilities will only occur if such relocation is cost effective for Lessee given other alternatives for addressing the electrical reliability of the Jackman area. In that event that the Jackman Tie Line is relocated pursuant to this section, upon completion of any such relocation of the Jackman Tie Line or its functional replacement and removal of Lessee's facilities from that portion of the Jackman Tie Line Lease lying westerly of the Premises, Lessor and Lessee agree to amend the Jackman Tie Line Lease to delete from the lease area that portion of the Jackman Tie Line Lease lying westerly of the Premises. All other terms and conditions of the Jackman Tie Line Lease shall remain in full force and effect.

~~Lessee shall relocate the existing utility line (100-foot corridor lease AKA the Jackman Tie Line) on Lessor's Johnson Mountain and West Forks Plantation North East Maine Public Reserved Lands property onto this new corridor, from the point of intersection with the new corridor. The relocation of the Jackman Tie Line will take place at the time the new utility corridor is constructed. Upon completion of the relocation, Lessee agrees to terminate the existing lease with Lessor on the abandoned utility corridor section and remove all of Lessee's facilities from the abandoned corridor section in accordance with the provisions of that lease.~~

## 7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited

**Commented [LP4]:** NO!

CMP is responsible for and fully capable of obtaining all legally required permits in a timely fashion. Thirty days to cure a default that should not happen in the first instance is generous. Ninety days to seek to cure such failure (which falls short of actually curing) plus time to prosecute, plus time to cure afforded by ¶ 13(b) is excessive. If CMP fails to get a permit and is making a good faith effort to remedy any such failure, it can explain that to the Bureau and, because the Bureau is reasonable, successfully persuade the Bureau not to exercise its discretion to terminate this lease, pursuant to this paragraph and paragraph 13(b).

**Commented [EK5]:** Why should this decision to co-locate a line on Bureau property to reduce fragmentation of habitat, multiple crossings of Cold Stream, and interference with Bureau use be conditioned on CMP determining it is cost-effective for them? If they want this line, we should require this in the lease.

to costs and attorney fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Lessor from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. Upon execution of this Lease, the Lessee shall furnish the Lessor with a certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, and such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.
11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.

12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and Lessee shall reimburse Lessor for the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing not to remove it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are incapable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

13. Default.

a. The following constitutes a default under this Lease: (1) Lessee's failure to perform any of its monetary or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy or insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local law, rule, regulation, or ordinance; or (6) Lessee's abandonment of the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period as defined in paragraph 6(m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney fees, incurred by reason of such default or termination hereof Lessor will provide Lessee with written notice of an event or occurrence of default under paragraph 13(a)(1) and Lessee shall have a reasonable period of time, as determined by Lessor, to cure said default which period shall not exceed ~~thirty (30)~~ thirty (30) days; provided, however, that if Lessee satisfies to Lessor that Lessee has

undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period.

14. Statutory Authority Over Public Lands. Lessor ~~shall have the right to request that this Lease be amended retains the right to revise this lease;~~ from time to time and throughout the term of this lease in ~~the event that any Lease term is found not to comply with Maine order to be in compliance with State-state Law-law regarding the lease of property under 12 M.R.S. § 1852-(4).~~ Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to ~~either terminate the Lease by notifying Lessor in writing within thirty (30) days of receipt of notice or negotiate an amendment to the Lease in order to bring such term in compliance with said State law. Except as provided in this Lease, neither Party shall have the right to terminate this lease unless the resulting non-compliance constitutes a default under Section 13 hereof, in which case Section 13 shall govern. Lessee may exercise said option to terminate by notifying Lessor in writing within 30 days of receipt of notice. Said termination shall become effective upon Lessor's receipt of the notification of the termination. If Lessee does not exercise the option to terminate, the proposed revision shall become effective 40 days from the date the Lessor sent the notice to Lessee. Lessor will draft a lease amendment for the revision and submit to Lessee for signature and return to Lessor. If Lessee fails to sign the amendment within 30 days from the date the lease amendment is sent by Lessor, this lease shall terminate.~~ ~~[file note: I've seen this provision in state leases before but am not sure what to do with it here. I would recommend removal or possible modification. The utility, and any project lender, should object to this kind of provision given the risk of changes in state law affecting the facilities. If the facilities have been constructed in compliance with state law, there should be no right to cause a termination and affecting the removal of the facilities during the term]~~
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorney fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.

**Commented [LP6]:** I'd like to review any modification proposed by Lessee to this paragraph.

18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by current or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to:  
State of Maine, Department of Agriculture, Conservation and Forestry, Division of Parks and Lands,  
22 State House Station, Augusta, ME 04333-0022, Attn: Director;  
and if to Lessee, to:  
Central Maine Power Company, Real Estate Services  
83 Edison Drive, Augusta, Maine 04364, Attn. Supervisor, Real Estate
25. General Provisions:
  - a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any

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provision herein is inconsistent with applicable state statute, the statute is deemed to govern.

- c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
Department of Agriculture, Conservation, and Forestry  
Bureau of Parks and Lands

By: \_\_\_\_\_  
Thomas Morrison Acting Director

Dated: \_\_\_\_\_, 2014

\_\_\_\_\_  
Witness

Lessee:

\_\_\_\_\_  
POWER COMPANY CENTRAL MAINE

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BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

## Koyanagi, Gayle

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**From:** Freye, Kenneth H <Kenneth.Freye@cmpco.com>  
**Sent:** Thursday, November 13, 2014 4:54 PM  
**To:** Rodrigues, David  
**Subject:** Lease on West Forks Plt. and Johnson Mt. PL

David,

Have you had any further thoughts on the outstanding issues on the proposed lease? CMP would like to have it executed before Dan Dwyer starts the field work for the appraisal. I will be in the office most of tomorrow if we need to discuss.

Ken

*Ken Freye*



*Agency Office - 79 Old Winthrop Road, Augusta, ME 04332 (207) 621.0600*

Kenneth Freye

*Maine Real Estate License #Br 108067*

Project Manager, Capital Projects, Real Estate Services – CMP Projects

83 Edison Drive, Augusta, ME 04336

Telephone 207.621.4753

Cell 207.629.7700

[kenneth.freye@CMPCO.com](mailto:kenneth.freye@CMPCO.com)

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# TRANSMISSION LINE LEASE

## BETWEEN

### DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY BUREAU OF PARKS AND LANDS and CENTRAL MAINE POWER COMPANY

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This Lease Agreement is made by and between the State of Maine, by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry, (hereinafter called the "Lessor"), acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, being a three hundred (300) foot wide by one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands. The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:

#### 1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and, at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request a lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof to the extent permitted under the provisions contained in paragraph 13 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

An annual payment of \$1,400.00, ~~the first payment shall be due on the date of execution of this lease~~ (the "Initial Payment") and subsequent annual payments shall be made paid annually on or before December first of each following year. Lessor or Lessee may, within the first twelve months of the lease and at either Lessor's or Lessee's sole discretion, commission an appraisal of the Premises. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal. The annual payment shall be adjusted each year in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding one year period.

In addition, Lessee shall pay to Lessor the negotiated price of the timber present on the Premises based on mill scale and stumpage value at time the corridor is harvested for the construction of the utility corridor.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of the Lessor; to transmit electricity and communication, as conditioned below, over said wires, cables, or apparatus installed on Lessee's facilities. Lessee shall own all communication facilities and such facilities shall be for Lessee's use in its business as a public utility. In the event Lessee desires to provide capacity to others on Lessee's communication facilities, Lessee shall first obtain Lessor's written approval, which shall not be unreasonably withheld. Lessor may adjust the rent at such time as Lessee provides communication capacity to others. The rent adjustment is to be determined by an appraisal paid for by Lessee. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee shall not sub-lease or contract the communication facilities for any other commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.
4. Quiet Enjoyment. So long as Lessee pays the rent, performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

- a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management Roads at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management Roads, Lessee must acquire prior written approval from Lessor. Lessee shall acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises which approval shall not be unreasonably withheld, delayed, or conditioned.
- b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as such uses may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least three business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. No hazardous or toxic waste substance or material, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliant registered for use in Maine may be applied to the Premises only after acquiring prior written approval from Lessor and only by trained applicators working under the supervision of applicators

licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides, herbicides, and chemical defoliant to be used, dates and methods of application, application locations and reasons for use.

- d. There shall be no vegetation removal that would result in less than 50% aerial coverage of woody vegetation and stream shading within 25- feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height approaching but not exceeding 15 feet. Lessee shall make every effort to minimize clearings and cutting of vegetation.
- g. Lessee acknowledges that lease of the Premises by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry is unique, and that in authorizing the Lease under 12 M.R.S. § 1852(4)(A), Lessor requires that Lessee shall make every reasonable effort within the leased Premises to be in conformance with the Maine Department of Inland Fisheries and Wildlife "Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects", "Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects", and "Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects", all dated March 26, 2012", which copies are attached to this lease.
- h. Lessee shall not kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities.
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any

noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's costs, including, but not limited to reasonable attorney fees.

- j. No non-forest waste including, but not limited to, broken equipment, spilt fuels, fluids and lubricants, fluid and lubricant containers, equipment parts, tires, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 and all roads shall be built pursuant to those Best Management Practices (BMPs) standards pertaining to forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.

Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community, wetland and Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to any construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction,

alteration or operation. Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30 days in which to cure such failure.

- n. In the event Lessee constructs an electric transmission line on the Premises, Lessee agrees to enter into discussions with Lessor regarding the relocation of that part of the existing 100-foot wide utility corridor described in a lease dated July 9, 1963 and recorded in the Somerset County Registry of Deeds, ~~in~~ Book 679, Page 37 (the "Jackman Tie Line Lease") located westerly of the Premises. Lessor and Lessee agree that the relocation of the above described facilities will only occur if such relocation is cost effective for Lessee given other alternatives for addressing the electrical reliability of the Jackman area. In that event that the Jackman Tie Line is relocated pursuant to this section, upon completion of any such relocation of the Jackman Tie Line or its functional replacement and removal of Lessee's facilities from that portion of the Jackman Tie Line Lease lying westerly of the Premises, Lessor and Lessee agree to amend the Jackman Tie Line Lease to delete from the lease area that portion of the Jackman Tie Line Lease lying westerly of the Premises. All other terms and conditions of the Jackman Tie Line Lease shall remain in full force and effect.

7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorney fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or



its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Lessor from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. Upon execution of this Lease, the Lessee shall furnish the Lessor with a certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, and such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.
11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and Lessee shall reimburse Lessor for the costs of such removal and disposal. Any other

personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing not to remove it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are incapable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

13. Default.

a. The following constitutes a default under this Lease: (1) Lessee's failure to perform any of its monetary or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy or insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local law, rule, regulation, or ordinance; or (6) Lessee's abandonment of the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period as defined in paragraph 6(m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney fees, incurred by reason of such default or termination hereof. Lessor will provide Lessee with written notice of an event or occurrence of default under paragraph 13(a)(1) and Lessee shall have a reasonable period of time, as determined by Lessor, to cure said default which period shall not exceed thirty (30) days; provided, however, that if Lessee satisfies to Lessor that Lessee has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period.

14. Statutory Authority Over Public Lands. Lessor shall have the right to request that this Lease be amended from time to time and throughout the term of this lease in the event that any Lease term is found not to comply with Maine ~~State-state Law-law~~ regarding the lease of property under 12 M.R.S. § 1852-(4). Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have

the option to either terminate the Lease by notifying Lessor in writing within thirty (30) days of receipt of notice or negotiate an amendment to the Lease in order to bring such term in compliance with said State law. Except as provided in this Lease, neither Party shall have the right to terminate this lease unless the resulting non-compliance constitutes a default under Section 13 hereof, in which case Section 13 shall govern.

15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorney fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by current or later existing laws.

23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to:  
**State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Lands,  
 22 State House Station, Augusta, ME 04333-0022, Attn: Director;  
 and if to Lessee, to;  
**Central Maine Power Company**, Real Estate Services  
 83 Edison Drive, Augusta, Maine 04364, Attn. Supervisor, Real Estate
25. General Provisions:
- a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
  - c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
 Department of Agriculture, Conservation, and Forestry  
 Bureau of Parks and -Lands

By: \_\_\_\_\_  
 Thomas Morrison Acting Director

Dated: \_\_\_\_\_, 2014

Witness

Lessee:

**CENTRAL MAINE POWER COMPANY**

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

## Koyanagi, Gayle

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**From:** Cutko, Andy  
**Sent:** Thursday, November 12, 2020 9:31 AM  
**To:** Rodrigues, David  
**Subject:** FW: CMP West Forks-Johnson Mountain Proposed Utility Line  
**Attachments:** powerline.pdf

Here is the e-mail we discussed a few days ago.

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**From:** Rodrigues, David <David.Rodrigues@maine.gov>  
**Sent:** Friday, November 14, 2014 2:06 PM  
**To:** Morrison, Tom <Tom.Morrison@maine.gov>  
**Cc:** Eickenberg, Katherine <Katherine.Eickenberg@maine.gov>  
**Subject:** RE: CMP West Forks-Johnson Mountain Proposed Utility Line

Tom,

[Here is the proposed corridor map if you need it.](#)

David

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**From:** Rodrigues, David  
**Sent:** Friday, November 14, 2014 2:00 PM  
**To:** Morrison, Tom  
**Cc:** Eickenberg, Katherine  
**Subject:** CMP West Forks-Johnson Mountain Proposed Utility Line

Tom,

We are near finalizing a Lease Agreement with CMP for the installation of a new Utility Transmission Corridor across the Bureau's Public Reserved Lands in West Forks Plantation and Johnson Mountain Township. We have two issues we are working on resolving. One issue is the crossing of Tomhegan Stream with the new corridor. The current crossing location may have significant impacts to the stream due to the removal of mature trees at this location with little to no understory or regeneration to provide stream shading. CMP has proposed moving the corridor to avoid crossing in this location and we are reviewing their proposal and seeking fisheries guidance from MIFW. A second resolution could be to require replanting of 4 to 5-foot tall native shrub vegetation within 75 feet of the stream in this location, which could provide stream shading in the near future. We are also discussing this possible lease condition with IFW.

The second issue is that CMP and BPL have not been able to agree on the partial rerouting of the existing utility line on the West Forks parcel onto the new corridor which is proposed to cross it. BPL has requested that CMP commit to moving the existing corridor onto the new corridor at the crossing location of the two corridors at the time the new corridor is cleared and constructed. CMP is currently opposed to committing to doing this. This existing corridor does not provide any annual lease rental income to the Bureau. The current lease for the existing corridor had a one-time rent of \$2,500 in 1963 with no provisions for a rental increase and a termination date of "until said Plantation becomes incorporated". If the Plantation does not incorporate the lease would go on endlessly or until CMP abandons it.

The positive results for BPL from co-location are:

- Reducing the amount of transmission line corridor on the public lands by approximately 9,900 feet long and 100 feet wide.

- Having an additional 23 acres of public lands for timber production.
- Reduce the fragmentation of the forest on the public lands

CMP is resisting committing to this reroute primarily due to cost:

1. The estimated cost for the reroute given to me by CMP is approximately \$1,406,250.00.

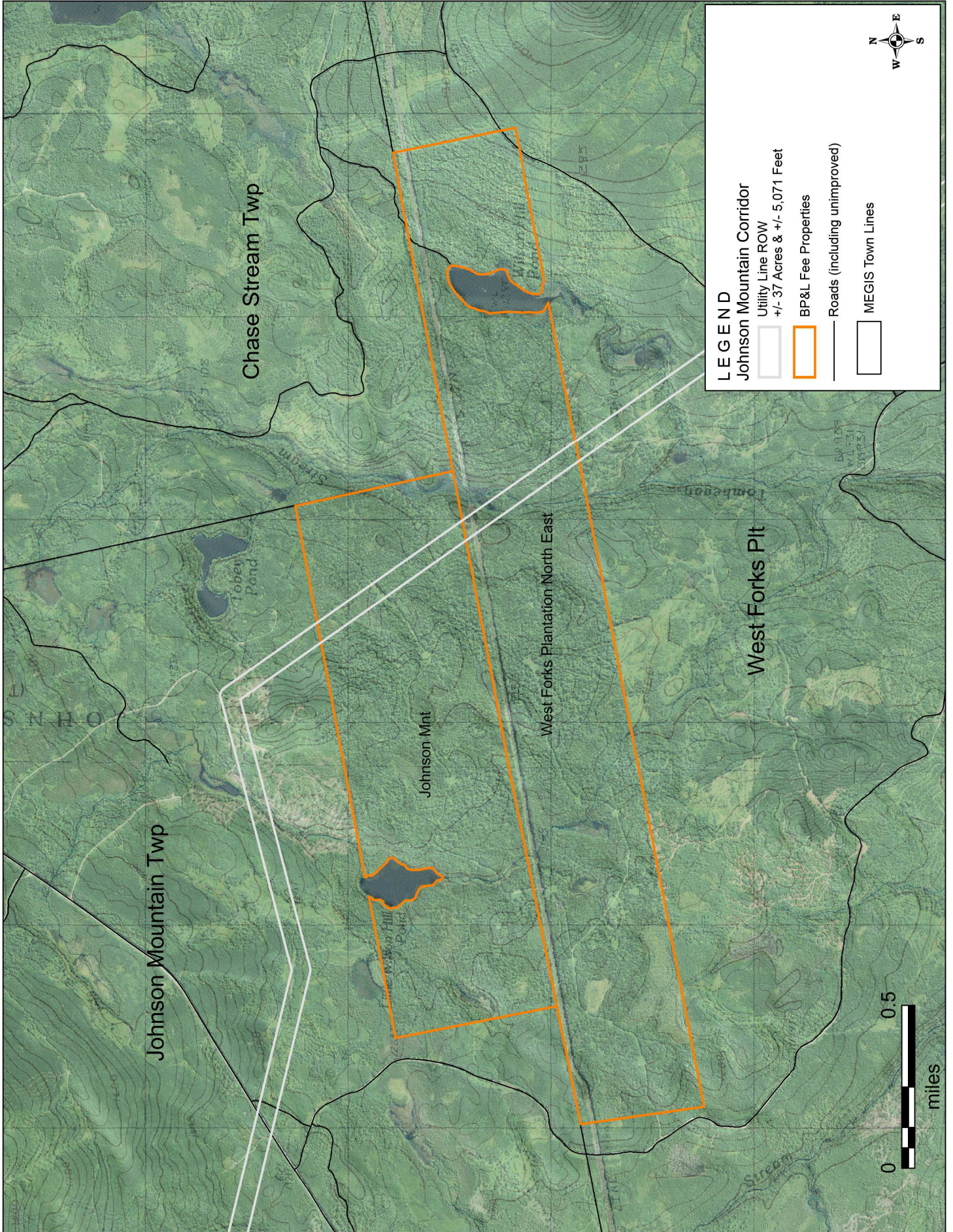
At this time we must decide on whether we will:

1. Settle for allowing the new corridor to move forward with the lease and no commitment from CMP that they will reroute the existing corridor.
2. Decline to move forward with a new corridor lease if they do not commit to the reroute.
3. As an incentive, propose to reduce the rent on the new corridor if they agree to reroute the existing corridor.
4. Compromise with a lease condition that states that they shall not rebuild the existing transmission line in its current location and that any replacement transmission line shall be constructed in the new corridor. I have discussed this with Ken Frye and he thinks CMP may agree to this.

Please advise on how you would like the Bureau to move forward on this?

Thank you,  
David







# TRANSMISSION LINE LEASE

## BETWEEN

### DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY BUREAU OF PARKS AND LANDS and CENTRAL MAINE POWER COMPANY

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This Lease Agreement is made by and between the State of Maine, by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry (hereinafter called the "Lessor"), acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, being a three hundred (300) foot wide by one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands. The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and, at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request a lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof to the extent permitted under the provisions contained in paragraph 13 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

An annual payment of \$1,400.00. The first payment shall be due on the date of execution of this lease (the "Initial Payment") and subsequent annual payments shall be made on or before December first of each following year. Lessor or Lessee may, within the first twelve months of the lease and at either Lessor's or Lessee's sole discretion, commission an appraisal of the Premises. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal. The annual payment shall be adjusted each year in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding one year period.

In addition, Lessee shall pay to Lessor the negotiated price of the timber present on the Premises based on mill scale and stumpage value at time the corridor is harvested for the construction of the utility corridor.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of the Lessor; to transmit electricity and communication, as conditioned below, over said wires, cables, or apparatus installed on Lessee's facilities. Lessee shall own all communication facilities and such facilities shall be for Lessee's use in its business as a public utility. In the event Lessee desires to provide capacity to others on Lessee's communication facilities, Lessee shall first obtain Lessor's written approval, which shall not be unreasonably withheld. Lessor may adjust the rent at such time as Lessee provides communication capacity to others. The rent adjustment is to be determined by an appraisal paid for by Lessee. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee shall not sub-lease or contract the communication facilities for any other commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.
4. Quiet Enjoyment. So long as Lessee pays the rent, performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

- a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management Roads at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management Roads, Lessee must acquire prior written approval from Lessor. Lessee shall acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises which approval shall not be unreasonably withheld, delayed, or conditioned.
- b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as such uses may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least three business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. No hazardous or toxic waste substance or material, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliant registered for use in Maine may be applied to the Premises only after acquiring prior written approval from Lessor and only by trained applicators working under the supervision of applicators licensed by the State of Maine in formulations and dosages approved by the

Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited to pesticides, herbicides, and chemical defoliant to be used, dates and methods of application, application locations and reasons for use.

- d. There shall be no vegetation removal that would result in less than 50% aerial coverage of woody vegetation and stream shading within 25 feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height approaching but not exceeding 15 feet. Lessee shall make every effort to minimize clearings and cutting of vegetation.
- g. Lessee acknowledges that lease of the Premises by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry is unique, and that in authorizing the Lease under 12 M.R.S. § 1852(4)(A), Lessor requires that Lessee shall make every reasonable effort within the leased Premises to be in conformance with the Maine Department of Inland Fisheries and Wildlife "Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects", "Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects", and "Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects", all dated March 26, 2012, which copies are attached to this lease.
- h. Lessee shall not kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities.
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing

septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's costs, including, but not limited to reasonable attorney fees.

- j. No non-forest waste including, but not limited to, broken equipment, spilt fuels, fluids and lubricants, fluid and lubricant containers, equipment parts, tires, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 and all roads shall be built pursuant to those Best Management Practices (BMPs) standards pertaining to forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.

Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community, wetland and Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to any construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. Lessee shall provide written confirmation that Lessee has

obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30 days in which to cure such failure.

n. In the event of the following:

- a) Lessee constructs an electric transmission line on the Premises; and
- b) Lessee has determined, in its sole discretion, to rebuild the existing transmission line (the "Jackman Tie Line") located on that part of the existing 100-foot wide utility corridor described in a lease dated July 9, 1963 and recorded in the Somerset County Registry of Deeds, Book 679, Page 37 (the "Jackman Tie Line Lease") that is located westerly of the Premises and easterly of Route 201; and
- c) Lessee has determined such relocation is cost effective for Lessee given other alternatives for addressing the electrical reliability of the Jackman area; and
- d) Lessee receives all permits and regulatory approvals necessary to rebuild the line in such new location including, but not limited to, approvals of the Maine Public Utilities Commission and the Maine Department of Environmental Protection; then

Lessee agrees to relocate said Jackman Tie Line from the above described portion of the Jackman Tie Line Lease to a location on the Premises and such other corridor as acquired by the Lessee from others. Upon completion of any such relocation of the Jackman Tie Line or its functional replacement pursuant to this section and removal of Lessee's facilities from that portion of the Jackman Tie Line Lease lying westerly of the Premises, Lessor and Lessee agree to amend the Jackman Tie Line Lease to delete from the lease area that portion of the Jackman Tie Line Lease lying westerly of the Premises. All other terms and conditions of the Jackman Tie Line Lease shall remain in full force and effect. The term "rebuild" as used in this paragraph, shall not include routine repair or replacement of poles, crossarms, insulators, braces or conductor.

7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any



property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorney fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Lessor from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. Upon execution of this Lease, the Lessee shall furnish the Lessor with a certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, and such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.

11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and Lessee shall reimburse Lessor for the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing not to remove it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are incapable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.
13. Default.
  - a. The following constitutes a default under this Lease: (1) Lessee's failure to perform any of its monetary or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy or insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local law, rule, regulation, or ordinance; or (6) Lessee's abandonment of the leased premises.
  - b. Upon the occurrence of any such event of default and subject to any applicable cure period as defined in paragraph 6(m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney fees, incurred by reason of such default or termination hereof. Lessor will provide Lessee with written notice of an event or occurrence of default

under paragraph 13(a)(1) and Lessee shall have a reasonable period of time, as determined by Lessor, to cure said default which period shall not exceed thirty (30) days; provided, however, that if Lessee satisfies to Lessor that Lessee has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period.

14. Statutory Authority Over Public Lands. Lessor shall have the right to request that this Lease be amended from time to time and throughout the term of this lease in the event that any Lease term is found not to comply with Maine state law regarding the lease of property under 12 M.R.S. § 1852(4). Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to either terminate the Lease by notifying Lessor in writing within thirty (30) days of receipt of notice or negotiate an amendment to the Lease in order to bring such term in compliance with said state law. Except as provided in this Lease, neither Party shall have the right to terminate this lease unless the resulting non-compliance constitutes a default under Section 13 hereof, in which case Section 13 shall govern.
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorney fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.

20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by current or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to:  
**State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Lands,  
22 State House Station, Augusta, ME 04333-0022, Attn: Director;  
and if to Lessee, to;  
**Central Maine Power Company**, Real Estate Services  
83 Edison Drive, Augusta, Maine 04364, Attn. Supervisor, Real Estate
25. General Provisions:
- a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
  - c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
Department of Agriculture, Conservation, and Forestry  
Bureau of Parks and Lands

By: \_\_\_\_\_  
Thomas Morrison Acting Director

Dated: \_\_\_\_\_, 2014

\_\_\_\_\_  
Witness

Lessee:

**CENTRAL MAINE POWER COMPANY**

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

# TRANSMISSION LINE LEASE

## BETWEEN

### DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY BUREAU OF PARKS AND LANDS and CENTRAL MAINE POWER COMPANY

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This Lease Agreement is made by and between the State of Maine, by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry (hereinafter called the “Lessor”), acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine (hereinafter called “Lessee”). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine described in Exhibit “A” and shown on Exhibit “B” attached hereto and incorporated herein, being a three hundred (300) foot wide by one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands. The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the “Property” or “Premises,” and is subject to the following terms and conditions:

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and, at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request a lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof to the extent permitted under the provisions contained in paragraph 13 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

An annual payment of \$1,400.00. The first payment shall be due on the date of execution of this lease (the "Initial Payment") and subsequent annual payments shall be made on or before December first of each following year. Lessor or Lessee may, within the first twelve months of the lease and at either Lessor's or Lessee's sole discretion, commission an appraisal of the Premises. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal. The annual payment shall be adjusted each year in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding one year period.

In addition, Lessee shall pay to Lessor the negotiated price of the timber present on the Premises based on mill scale and stumpage value at time the corridor is harvested for the construction of the utility corridor.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of the Lessor; to transmit electricity and communication, as conditioned below, over said wires, cables, or apparatus installed on Lessee's facilities. Lessee shall own all communication facilities and such facilities shall be for Lessee's use in its business as a public utility. In the event Lessee desires to provide capacity to others on Lessee's communication facilities, Lessee shall first obtain Lessor's written approval, which shall not be unreasonably withheld. Lessor may adjust the rent at such time as Lessee provides communication capacity to others. The rent adjustment is to be determined by an appraisal paid for by Lessee. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee shall not sub-lease or contract the communication facilities for any other commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.
4. Quiet Enjoyment. So long as Lessee pays the rent, performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.



5. Access:

- a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management Roads at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management Roads, Lessee must acquire prior written approval from Lessor. Lessee shall acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises which approval shall not be unreasonably withheld, delayed, or conditioned.
- b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as such uses may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least three business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. No hazardous or toxic waste substance or material, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliant registered for use in Maine may be applied to the Premises only after acquiring prior written approval from Lessor and only by trained applicators working under the supervision of applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited

to pesticides, herbicides, and chemical defoliant to be used, dates and methods of application, application locations and reasons for use.

- d. There shall be no vegetation removal that would result in less than 50% aerial coverage of woody vegetation and stream shading within 25 feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height approaching but not exceeding 15 feet. Lessee shall make every effort to minimize clearings and cutting of vegetation.
- g. Lessee acknowledges that lease of the Premises by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry is unique, and that in authorizing the Lease under 12 M.R.S. § 1852(4)(A), Lessor requires that Lessee shall make every reasonable effort within the leased Premises to be in conformance with the Maine Department of Inland Fisheries and Wildlife "Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects", "Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects", and "Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects", all dated March 26, 2012, which copies are attached to this lease.
- h. Lessee shall not kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities.
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold harmless Lessor from and against any and all actions, suits, damages and claims by

any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's costs, including, but not limited to reasonable attorney fees.

- j. No non-forest waste including, but not limited to, broken equipment, spilt fuels, fluids and lubricants, fluid and lubricant containers, equipment parts, tires, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 and all roads shall be built pursuant to those Best Management Practices (BMPs) standards pertaining to forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.

Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community, wetland and Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to any construction on the Premises. Lessee shall send to Lessor a copy of all completed surveys before commencing any construction on the Premises.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities. Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease

shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30 days in which to cure such failure.

n. In the event of the following:

- a) Lessee constructs an electric transmission line on the Premises; and
- b) Lessee has determined, in its sole discretion, to rebuild the existing transmission line (the “Jackman Tie Line”) located on that part of the existing 100-foot wide utility corridor described in a lease dated July 9, 1963 and recorded in the Somerset County Registry of Deeds, Book 679, Page 37 (the “Jackman Tie Line Lease”) that is located westerly of the Premises and easterly of Route 201; and
- c) Lessee has determined that rebuilding the portion of the JTL described above is cost effective for Lessee given other alternatives for addressing the electrical reliability of the Jackman area; and
- d) Lessee receives all permits and regulatory approvals necessary to rebuild the line in such new location including, but not limited to, approvals of the Maine Public Utilities Commission and the Maine Department of Environmental Protection;

then, upon meeting all of the above conditions, Lessee agrees to relocate said Jackman Tie Line from the above described portion of the Jackman Tie Line Lease to a location on the Premises and such other corridor as acquired by the Lessee from others. Upon completion of any such relocation of the Jackman Tie Line or its functional replacement pursuant to this section and removal of Lessee’s facilities from that portion of the Jackman Tie Line Lease lying westerly of the Premises, Lessor and Lessee agree to amend the Jackman Tie Line Lease to delete from the lease area that portion of the Jackman Tie Line Lease lying westerly of the Premises. All other terms and conditions of the Jackman Tie Line Lease shall remain in full force and effect. The term “rebuild” as used in this paragraph, shall not include routine repair or replacement of poles, crossarms, insulators, braces or conductor.

7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b. Except for the conduct of Lessor and Lessor’s guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and

attorney fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Lessor from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. Upon execution of this Lease, the Lessee shall furnish the Lessor with a certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, and such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.
11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.

12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and Lessee shall reimburse Lessor for the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing not to remove it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are incapable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

13. Default.

a. The following constitutes a default under this Lease: (1) Lessee's failure to perform any of its monetary or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy or insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local law, rule, regulation, or ordinance; or (6) Lessee's abandonment of the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period as defined in paragraph 6(m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney fees, incurred by reason of such default or termination hereof. Lessor will provide Lessee with written notice of an event or occurrence of default under paragraph 13(a)(1) and Lessee shall have a reasonable period of time, as determined by Lessor, to cure said default which period shall not exceed thirty (30) days; provided, however, that if Lessee satisfies to Lessor that Lessee has undertaken the appropriate

actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period.

14. Statutory Authority Over Public Lands. Lessor shall have the right to request that this Lease be amended from time to time and throughout the term of this lease in the event that any Lease term is found not to comply with Maine state law regarding the lease of property under 12 M.R.S. § 1852(4). Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to either terminate the Lease by notifying Lessor in writing within thirty (30) days of receipt of notice or negotiate an amendment to the Lease in order to bring such term in compliance with said state law. Except as provided in this Lease, neither Party shall have the right to terminate this lease unless the resulting non-compliance constitutes a default under Section 13 hereof, in which case Section 13 shall govern.
15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorney fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.



21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.
22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by current or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to:  
**State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Lands,  
22 State House Station, Augusta, ME 04333-0022, Attn: Director;  
and if to Lessee, to;  
**Central Maine Power Company**, Real Estate Services  
83 Edison Drive, Augusta, Maine 04364, Attn. Supervisor, Real Estate
25. General Provisions:
  - a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
  - c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
Department of Agriculture, Conservation, and Forestry  
Bureau of Parks and Lands

By: \_\_\_\_\_  
Thomas Morrison Acting Director

Dated: \_\_\_\_\_, 2014

\_\_\_\_\_  
Witness

Lessee:

**CENTRAL MAINE POWER COMPANY**

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

## Koyanagi, Gayle

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**From:** Freye, Kenneth H <Kenneth.Freye@cmpco.com>  
**Sent:** Monday, December 1, 2014 2:26 PM  
**To:** Rodrigues, David  
**Subject:** RE: West Forks, Johnson Mtn. Draft Lease CMP-BPL 2014-11-24

David,  
CMP is OK with the changes. I will add the updated exhibits and send two signed copies to you. It may take a couple of days to get the signatures. I hope all goes well with the surgery and your wife has a speedy recovery.  
Ken

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**From:** Rodrigues, David [mailto:David.Rodrigues@maine.gov]  
**Sent:** Monday, December 01, 2014 11:25 AM  
**To:** Freye, Kenneth H  
**Subject:** FW: West Forks,Johnson Mtn. Draft Lease CMP-BPL 2014-11-24

Hi Ken,

Removing condition "c" is satisfactory, thanks.

Attached is mostly a clean version of the lease with all your edits accepted, excluding section "c". IFW responded with their recommendations (see below), we have added in their recommendation C to the lease in redline in section 6,l. We did not see that their recommendation A was applicable since all the mapped streams on the leased area are now avoided with the new route. In response to their recommendation B, we felt that what was currently in the lease, was adequate at this time. In the Future, after further review and surveys of the corridor route at the time of permitting, MIFW can recommend additional setbacks if the surveys show a need. If minor adjustments are needed in the corridor to avoid vernal pools for example, the Bureau can easily make amendments to the lease to adjust the route. I also added in section 6,g "or the most current versions of the IFW recommended standards"

If you feel that you want to make any edits to the lease based on IFW's recommendations, please let me know. If the two additions are acceptable, please accept them and print out two original leases. Please have CMP sign both and send the two originals to me along with the new exhibit A and B. I'll have the Acting Director (Tom Morrison) sign and return to you the fully executed lease.

I'm in today, but my wife is having some major surgery tomorrow, so I don't know how much time I will be in the office the rest of this week. I'll have to shuttle her around to Portland and Brunswick for follow-up visits on Wednesday and Thursday so will most likely not be available. Call me on my cell phone at 446-1747 if you have any questions. She is expected to be able to be on her own by next Monday, if all goes well, I should be back in the office full time by then.

Thanks,  
David

David,

CMP is agreeable to deleting condition 'c.' which should resolve the matter. Let me know if this is acceptable. I will get the exhibit and description to you first thing next week.

Ken

*Ken Freye*



Agency Office - 79 Old Winthrop Road, Augusta, ME 04332 (207) 621.0600

Kenneth Freye

Maine Real Estate License #Br 108067

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proposed corridor, and specifies that these recommendations do not replace MDIFW's recommendations as part of a formal environmental review nor do they preclude MDIFW from conducting a formal review. Because we are reviewing only a very small segment of a presumably much larger transmission line project, we can only provide general recommendations at this point.

### 1. Draft Lease Recommendations:

A. In Section 6.d. it states, *"There shall be no vegetation removal that would result in less than 50% aerial coverage of woody vegetation and stream shading within 25 feet of a stream."* As referenced in MDIFW's Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects (March 26, 2012), and as part of current MDIFW recommendations on large scale projects such as gen lead lines associated with wind energy projects, *"...riparian buffers are defined as 100-foot natural vegetated buffers measured from the upland edge of associated fringe and floodplain wetlands on either side of the waterbody"*. Further, for the large scale projects referenced, MDIFW recommends 250-foot buffers for any stream in which Atlantic salmon or Northern spring salamanders are located or suspected. While Atlantic salmon are not within the BPL project area, the presence of Northern spring salamanders is possible. This species requires clean, free flowing riverine habitat with vegetated buffers and minimal shoreline disturbance.

B. In Section 6.g., MDIFW was pleased to note reference to our Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects, Recommended Performance

---

**From:** Stratton, Robert D  
**Sent:** Tuesday, November 25, 2014 5:11 PM  
**To:** Rodrigues, David  
**Cc:** Eickenberg, Katherine; Morrison, Tom; Connolly, James; Perry, John; VanRiper, Robert; Boucher, Dave; Erskine, Andrea  
**Subject:** RE: West Forks, Johnson Mtn. Draft Lease CMP-BPL 2014-11-24

Good afternoon David,

MDIFW appreciates the opportunity to review the draft "Transmission Line Lease" between DACF BPL and Central Maine Power Company, and to comment on two potential corridor crossings of BPL land, per your request (see attached map). It should be noted that MDIFW is providing the following recommendations without the benefit of a detailed project site plan of the

Standards for Maine’s Significant Vernal Pools in Overhead Utility ROW Projects, and Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects (all dated March 26, 2012), but would recommend stronger guidance than “*Lessee shall make every reasonable effort within the leased Premises to be in conformance*”. Also please note that these standards are currently being internally reviewed and are subject to revision.

C. In Section 6.I., MDIFW requests the following change, “Natural Plant Community, wetland and Significant Vernal Pool field surveys... . Lessee shall send to Lessor and to the Maine Department of Inland Fisheries and Wildlife, a copy of all completed surveys before commencing any construction on the Premises.”

## 2. Corridor Recommendation:

MDIFW was asked to review two potential corridor locations as they potentially impact BPL property. As noted above, MDIFW has not been made aware of the entire proposed transmission line corridor and is only addressing the immediate question related to stream crossings in BPL’s Johnson Mountain and West Forks Plantation Northeast parcels. The two options presented consist of: (1) the “original” proposed corridor that would cross both Tomhegan Stream and the tributary from Wilson Hill Pond while on BPL property, and (2) a more westerly proposed corridor that would cross Tomhegan Stream south of BPL property and eliminate the crossing of the second stream. MDIFW notes that all streams in the vicinity are high quality, coldwater brook trout waters. As noted on the attached resource map, several waters are designated as A and B Heritage Waters. Generally, given the quality habitat involved, MDIFW believes that fewer stream crossings are preferred, which suggests the second option of the two. However, as this option is further south, CMP needs to ensure that an adequate riparian buffer to Cold Stream is maintained.

MDIFW also notes the presence of the proposed State of Maine Cold Stream Acquisition Project in this area that is intended to protect valuable coldwater fisheries habitat and deer wintering areas (see attached map). As part of a future full environmental permit application review, MDIFW will look to see that potential impacts to these valuable resources are avoided or minimized to the extent practicable.

## 3. General Recommendations:

MDIFW anticipates that our recommendations as part of a future environmental permit application review will likely include issues such as the following:

A. All temporary and permanent stream crossings should incorporate StreamSmart practices:

1. Span the stream channel to 1.2 times the bankfull width.
2. Set the crossing at the proper elevation.
3. Ensure the slope within the crossing matches the stream slope.
4. Include substrate in the crossing either by using open bottomed structures or embedding a closed structure.
5. Culverts should be embedded 25% of the rise.

B. In general for large scale projects, and specific to this proposed project area of this size, MDIFW recommends preconstruction investigations for potential impacts to the following species and habitats, including, but not limited to:

1. Inland Waterfowl and Wadingbird Habitats (IWWH moderate and high value)
2. A & B List Ponds

3. Canada lynx
4. Deer Wintering Areas (no mapped DWAs are noted, but there are mapped LURC p-fw's)
5. Rusty blackbirds
6. Bats
7. Northern Spring Salamander
8. Roaring Brook Mayfly
9. Raptors (general concern)
10. Great Blue Heron colonies
11. Significant Vernal Pools

C. The following information is provided from MDIFW recommendations for other project reviews to provide greater information to the applicant. The applicant should collaborate with MDIFW to develop complete, agreed-upon preconstruction survey protocols prior to collecting data in the field.

1. Bats: Seven out of eight species of bats in Maine are currently listed as Species of Special Concern by MDIFW: eastern small-footed bat (*Myotis leibii*), little brown bat (*Myotis lucifugus*), northern long-eared bat (*Myotis septentrionalis*), red bat (*Lasiurus borealis*), hoary bat (*Lasiurus cinereus*), silver-haired bat (*Lasionycteris noctivagans*), and tri-colored bat (*Perimyotis subflavus*). However, the three species of *Myotis* are currently the subject of the rulemaking process for protection under Maine's Endangered Species Act. While a comprehensive statewide inventory for bats has not been completed, it is likely that all or most of these species occur within the project area during migration and/or the breeding season. At this time, we have not developed guidelines to avoid or minimize impacts to habitat for these species, particularly from forestry clearing operations associated with the construction of the project; therefore, we will defer to guidance and recommendations provided from the U.S. Fish and Wildlife Service (USFWS), as the northern long-eared bat is being proposed for listing as an Endangered Species under the Federal Endangered Species Act.

2. Great Blue Heron Surveys: MDIFW recommends an aerial survey area within 4-miles of proposed development locations to look for new and existing colonies and level of use, include ridgeline sightings in raptor survey work. Surveys should be conducted between April 20 and May 31 (later in northern Maine and in Downeast Maine).

3. Bicknell's Thrush Surveys: At sites believed to support Bicknell's Thrush (~2,700 ft. elevation and above), a series of surveys should be conducted to assess the abundance and distribution of the population at that site. Surveys initially entail a series of point counts with broadcast to determine presence. If present (either by survey or anecdotal observation), surveys are followed by spot mapping to identify core areas for protection. Surveys for Bicknell's Thrush should involve close coordination with MDIFW staff to ensure consistent timing and level of effort with past studies.

4. Roaring Brook Mayfly Surveys: If the project area is high elevation (>1,000 feet) and within the species' currently known distribution, potentially suitable habitat should be identified during stream delineations and surveyed during the appropriate timing window (September).

5. Spring Salamander Surveys: If the area is high elevation (>1,000 feet) and within the species' known distribution, potentially suitable habitat should be identified during stream delineations and surveyed during the appropriate timing window (mid-May to mid-September).

6. Vernal Pool Surveys: Vernal pool surveys should be conducted within 250 feet of any proposed project impact and during the recommended egg mass periods. A MEDEP Maine State Vernal Pool Assessment Form should be filled out for each pool and submitted to MDIFW for pool status determination well before the project application is submitted to MDEP.

7. Northern Bog Lemming Surveys: As part of wetland delineations (>2,700 el, or those wetlands that show characteristics) MDIFW recommends that the applicant note any potential habitat supporting Northern Bog Lemming, and that they perform a meandering-type survey to document lemming presence through run-ways, latrines, and green scat. We do not recommend snap-trapping, or box trapping the wetland. If it has evidence of lemmings is present, MDIFW will consider the area as occupied and buffer accordingly. MDIFW recommendations will be to avoid these wetlands, or to prove that bog lemmings are not present.

8. Rare Animal Forms: MDIFW requests that the applicant/consultants document any Rare, Threatened, or Endangered Species they may encounter during course of other surveys.

As indicated previously, these recommendations are based on limited information and therefore do not constitute a comprehensive review of the entire proposed transmission line. Further, they do not replace MDIFW's recommendations as part of a formal environmental review, which we anticipate will occur in the future. Thank you very much. Please let us know if you have any questions or concerns. Thank you, Bob.

Bob Stratton  
Supervisor, Fisheries and Wildlife Program Support  
Maine Department of Inland Fisheries and Wildlife  
41 State House Station  
Augusta, Maine 04333-0041  
Tel (207) 287-5659; Cell (207) 592-5446  
Fax (207) 287-6395

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# TRANSMISSION LINE LEASE

## BETWEEN

### DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY BUREAU OF PARKS AND LANDS and CENTRAL MAINE POWER COMPANY

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This Lease Agreement is made by and between the State of Maine, by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry (hereinafter called the "Lessor"), acting pursuant to the provisions of Title 12 M.R.S.A. §1852(4), and Central Maine Power Company, a Maine corporation with its principal place of business at 83 Edison Drive, Augusta, Maine (hereinafter called "Lessee"). For the considerations hereinafter set forth, the Lessor hereby leases to Lessee, and Lessee hereby takes from the Lessor, the non-exclusive use of that portion of the West Forks Plantation and Johnson Mountain Township (T2 R6 BKP WKR) Maine Public Reserved Lands in Somerset County, Maine described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein, being a three hundred (300) foot wide by one mile long transmission line corridor located on a portion of the aforementioned Maine Public Reserved Lands. The described transmission line corridor, together with the improvements now or hereafter to be placed thereon, is hereinafter referred to as the "Property" or "Premises," and is subject to the following terms and conditions:

1. Term:

a. This lease shall be in effect from the date of execution of this instrument for a term of twenty-five (25) years and, at no less than 5 year intervals, the term of this lease may be extended by mutual agreement for additional years as will grant Lessee a remaining lease term totaling no more than twenty-five (25) years, so long as Lessee is in compliance with the conditions of this lease. Lessee shall not request a lease term extension any more often than once every five years. Notice of any lease extension shall be given to Lessor at least six (6) months prior to the expiration of any initial term or renewal period.

b. Lessor reserves the right to terminate this Lease at any time during the term hereof to the extent permitted under the provisions contained in paragraph 13 Default.

c. Lessee has the right to terminate this Lease upon at least ninety (90) days prior written notice to Lessor, or such lesser notice period as agreed to by Lessor in writing.

d. Any notice required by this paragraph, whether by Lessee or Lessor, shall be sent postage pre-paid, registered or certified mail, return receipt requested, to the party at the address set forth in paragraph 24.

2. Rent. Lessee shall pay to the Lessor rental as follows:

An annual payment of \$1,400.00. The first payment shall be due on the date of execution of this lease (the "Initial Payment") and subsequent annual payments shall be made on or before December first of each following year. Lessor or Lessee may, within the first twelve months of the lease and at either Lessor's or Lessee's sole discretion, commission an appraisal of the Premises. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee agrees to pay any additional value above the Initial Payment indicated by the appraisal and the cost of the appraisal. The annual payment shall be adjusted each year in an amount not to exceed the average increase in the Consumer Price Index as published by the Bureau of Labor Statistics, United States Department of Labor over the preceding one year period.

In addition, Lessee shall pay to Lessor the negotiated price of the timber present on the Premises based on mill scale and stumpage value at time the corridor is harvested for the construction of the utility corridor.

3. Use. The Property shall be used by the Lessee as follows: to erect, construct, reconstruct, replace, remove, maintain, operate, repair, upgrade, and use poles, towers, wires, switches, and other above-ground structures and apparatus used or useful for the above-ground transmission of electricity ("Facilities"), all as the Lessee, its successors and assigns, may from time to time require upon, along, and across said Property; to enter upon the Property at any time with personnel and conveyances and all necessary tools and machinery to maintain the Premises and facilities; the non-exclusive right of ingress to and egress from the Premises over and across the land of the Lessor; to transmit electricity and communication, as conditioned below, over said wires, cables, or apparatus installed on Lessee's facilities. Lessee shall own all communication facilities and such facilities shall be for Lessee's use in its business as a public utility. In the event Lessee desires to provide capacity to others on Lessee's communication facilities, Lessee shall first obtain Lessor's written approval, which shall not be unreasonably withheld. Lessor may adjust the rent at such time as Lessee provides communication capacity to others. The rent adjustment is to be determined by an appraisal paid for by Lessee. Both Lessor and Lessee shall agree on the Appraiser to be assigned the appraisal assignment. Lessee shall not sub-lease or contract the communication facilities for any other commercial use. The Lessor further grants to said Lessee the right to establish any and all safety and reliability regulations applicable to said transmission line corridor which said Lessee deems necessary and proper for the safe and reliable construction and maintenance of said structures, wires, and apparatus and for the transmission of electricity.
4. Quiet Enjoyment. So long as Lessee pays the rent, performs all of its non-monetary obligations, and otherwise complies with the provisions of this Lease, the Lessee's possession of the Premises for its intended use will not be disturbed by the Lessor, its successors and assigns except as otherwise provided under the terms of this Lease. Notwithstanding any provision to the contrary herein, Lessor reserves the right to enter onto the Premises at any time and from time to time to inspect the Premises.

5. Access:

- a. It is agreed by the parties to this Lease that Lessor is under no obligation to construct or maintain access to the Premises, notwithstanding any provisions of any federal, state and local law to the contrary. However, the Lessee shall be allowed to cross Lessor's abutting land by using Lessor's Forest Management Roads for access to the Premises for construction, maintenance and repairs, subject to reasonable restrictions and regulations imposed by Lessor, and the rights of others using said roads. Upon reasonable advance notice to Lessee, Lessor reserves the right to close, lock or otherwise restrict access along or through the Forest Management Roads at any time it appears reasonably necessary to protect the safety of persons or property. Such situations include, but are not limited to, spring mud season or periods of high fire danger. Lessee shall immediately repair any damage to the road caused by Lessee. Lessor is under no obligation to provide maintenance to the road. If Lessee wishes to undertake performing repairs or upgrades to the Forest Management Roads, Lessee must acquire prior written approval from Lessor. Lessee shall acquire prior written approval for the construction or use of any other access location across Lessor's land abutting the Premises which approval shall not be unreasonably withheld, delayed, or conditioned.
- b. The Lessor expressly reserves the right for itself or its guests, servants, or agents to pass and repass over the described Premises at any and all times with machinery and equipment necessary for the operation or conduct of Lessor's uses as such uses may from time to time exist, provided that: said uses will comply with the above referenced safety regulations and any applicable state law, and will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies; that the Lessor shall provide Lessee with at least three business days prior written notice if Lessor will be on the Premises with construction or logging equipment; and that such use will not unreasonably interfere with the rights of Lessee herein conveyed.

6. Lessee Covenants. The Lessee covenants as follows:

- a. No buildings, either permanent or temporary, may be constructed or placed upon the described Premises, except temporary structures during construction of the Facilities, such as field trailers.
- b. Crossing mats for stream or wetland crossings shall not be made of ash or hemlock, so as to avoid introduction of invasive pests associated with these species.
- c. No hazardous or toxic waste substance or material, residual pesticides or fertilizers, other than organic compost, shall be used or kept upon the Premises or any portion thereof, nor shall any livestock or poultry be kept temporarily or permanently thereon. Pesticides, herbicides, and chemical defoliant registered for use in Maine may be applied to the Premises only after acquiring prior written approval from Lessor and only by trained applicators working under the supervision of applicators licensed by the State of Maine in formulations and dosages approved by the Environmental Protection Agency and Lessor. One month prior to all pesticide applications, Lessee shall provide information to Lessor, including, but not limited

to pesticides, herbicides, and chemical defoliant to be used, dates and methods of application, application locations and reasons for use.

- d. There shall be no vegetation removal that would result in less than 50% aerial coverage of woody vegetation and stream shading within 25 feet of a stream.
- e. There shall be no vegetation maintenance or disturbance within a 50-foot radius around the high water boundary of a significant vernal pool from March 15 – July 15; provided, however, that Lessee may take all appropriate actions with regards to vegetation management to ensure that Lessee is in compliance with all federal and state laws, rules and regulations imposed upon Lessee as the owner and operator of the Facilities.
- f. Lessee shall not make any strip or waste of the Leased Premises or of any other lands of Lessor. Vegetation clearing within the Leased Premises for Lessee's Facilities shall be limited to standards approved by the Maine Public Utilities Commission and shall encourage a ground cover of woody species with a maximum mature height approaching but not exceeding 15 feet. Lessee shall make every effort to minimize clearings and cutting of vegetation.
- g. Lessee acknowledges that lease of the Premises by the Bureau of Parks and Lands, Department of Agriculture, Conservation and Forestry is unique, and that in authorizing the Lease under 12 M.R.S. § 1852(4)(A), Lessor requires that Lessee shall make every reasonable effort within the leased Premises to be in conformance with the Maine Department of Inland Fisheries and Wildlife "Recommended Performance Standards for Inland Waterfowl and Wadingbird Habitats in Overhead Utility ROW Projects", "Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects", and "Recommended Performance Standards for Riparian Buffers in Overhead Utility ROW Projects", all dated March 26, 2012, which copies are attached to this lease, or the publication's most current version.
- h. Lessee shall not kindle any outside fires on the Premises or any other land of the Lessor, except in accordance with applicable federal, state and local regulations, and hereby agrees to assist with any means at Lessee's disposal in putting out fires occurring on the Premises or adjacent areas, and to report promptly such fires to Lessor or its representative and to the appropriate authorities.
- i. Lessee agrees to maintain the Premises in a neat and sanitary manner and to provide for proper disposal of all garbage, trash, septic (for purposes of this Lease, "septic" shall mean, but is not limited to, sewage, wash water, black water, gray water and slop water), and other waste in compliance with all applicable federal, state and local laws and in a manner so as not to be objectionable or detract from the aesthetic values of the general area. Lessee shall not discharge any untreated or partially treated sewage or other waste materials directly or indirectly into any body of water including but not limited to, any wetland, stream, river, lake, pond, or groundwater. In addition, Lessee covenants that it bears the responsibility for any noncompliance with all federal, state and local laws and regulations governing septic and other waste disposal resulting from Lessee's activities and Lessee shall indemnify and hold

harmless Lessor from and against any and all actions, suits, damages and claims by any party by reason of noncompliance by Lessee with such laws and regulations. Such indemnification shall include all Lessor's costs, including, but not limited to reasonable attorney fees.

- j. No non-forest waste including, but not limited to, broken equipment, spilt fuels, fluids and lubricants, fluid and lubricant containers, equipment parts, tires, debris, garbage, or trash shall be deposited, discharged, dumped or buried upon the Premises. Forest woody waste (e.g., wood chips and stumps) may be disposed of on the premises, but may not be disposed of in piles. Stumps shall be buried in "stump dump" holes, except that small numbers of stumps (four or less) may be left aboveground. All non-forest waste shall be disposed of legally and not on property of Lessor.
- k. Lessee shall not build permanent roads on the Premises without obtaining prior specific written permission from the Lessor; provided, however, that Lessee may construct a minimal number of temporary roads and trails to facilitate the construction of the transmission line (tree clearing, pole setting, wiring). At the time construction is completed, all temporary roads and trails shall be dismantled and put to bed or converted to permanent access trails. All access trails shall be built to Best Management Practices (BMP) standards as shown in the "Maine Motorized Trail Construction and Maintenance Manual" written by the Bureau of Parks and Lands Off-Road Vehicle Division, dated May 2011 and all roads shall be built pursuant to those Best Management Practices (BMPs) standards pertaining to forest management and road construction practices set forth in the publication entitled, "Best Management Practices for Forestry: Protecting Maine's Water Quality," prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication's most current version at the time of the grant of this lease, and as the same may be further amended, supplemented or replaced after the date of the execution of this lease.

Prior to start of construction, Lessee shall provide an Access and Maintenance Plan to Lessor for review and approval. This plan shall provide details and maps on proposed roads, permanent and temporary, access points, temporary trails, inspection, and maintenance access, and descriptions of any proposed bridges, temporary or permanent.

- l. Natural Plant Community, wetland and Significant Vernal Pool field surveys of the Premises must be conducted by Lessee or Lessee's designee prior to any construction on the Premises. Lessee shall send to Lessor [and to the Maine Department of Inland Fisheries and Wildlife](#) a copy of all completed surveys before commencing any construction on the Premises.
- m. Lessee shall be in compliance with all Federal, State and local statutes, ordinances, rules, and regulations, now or hereinafter enacted which may be applicable to Lessee in connection to its use of the Premises. Lessee further shall not construct, alter or operate the described Premises in any way until all necessary permits and licenses have been obtained for such construction, alteration or operation. Lessee shall provide written confirmation that Lessee has obtained all material permits and licenses to construct and operate the Facilities.

Lessee shall furnish Lessor with copies of all such permits and licenses, together with renewals thereof to Lessor upon the written request of Lessor. This lease shall terminate at the discretion of the Lessor for failure of Lessee to obtain all such required permits. Prior to such termination, however, Lessor shall provide written notice to Lessee of such failure and Lessee shall have 30 days in which to cure such failure.

n. In the event of the following:

- a) Lessee constructs an electric transmission line on the Premises; and
- b) Lessee has determined, in its sole discretion, to rebuild the existing transmission line (the "Jackman Tie Line") located on that part of the existing 100-foot wide utility corridor described in a lease dated July 9, 1963 and recorded in the Somerset County Registry of Deeds, Book 679, Page 37 (the "Jackman Tie Line Lease") that is located westerly of the Premises and easterly of Route 201; and
- c) Lessee receives all permits and regulatory approvals necessary to rebuild the line in such new location including, but not limited to, approvals of the Maine Public Utilities Commission and the Maine Department of Environmental Protection; then

Lessee agrees to relocate said Jackman Tie Line from the above described portion of the Jackman Tie Line Lease to a location on the Premises and such other corridor as acquired by the Lessee from others. Upon completion of any such relocation of the Jackman Tie Line or its functional replacement pursuant to this section and removal of Lessee's facilities from that portion of the Jackman Tie Line Lease lying westerly of the Premises, Lessor and Lessee agree to amend the Jackman Tie Line Lease to delete from the lease area that portion of the Jackman Tie Line Lease lying westerly of the Premises. All other terms and conditions of the Jackman Tie Line Lease shall remain in full force and effect. The term "rebuild" as used in this paragraph, shall not include routine repair or replacement of poles, crossarms, insulators, braces or conductor.

## 7. Liability and Insurance.

a. Lessee shall without unreasonable delay inform Lessor of all risks, hazards and dangerous conditions caused by Lessee which are outside of the normal scope of constructing and operating the Facilities of which Lessee becomes aware of with regards to the Premises. Lessee assumes full control of the Premises, except as is reserved by Lessor herein, and is responsible for all risks, hazards and conditions on the Premises caused by Lessee.

b. Except for the conduct of Lessor and Lessor's guests and agents, Lessor shall not be liable to Lessee for any injury or harm to any person, including Lessee, occurring in or on the Premises or for any injury or damage to the Premises, to any property of the Lessee, or to any property of any third person or entity. Lessee shall indemnify and defend and hold and save Lessor harmless, including, but not limited to costs and attorney fees, from: (a) any and all suits, claims and demands of any kind or nature, by and on behalf of any person or entity, arising out of or based upon any incident, occurrence, injury, or damage which shall or may happen in or on the Premises that is caused by the Lessee or its Agents; and (b) any matter or thing arising out of the



condition, maintenance, repair, alteration, use, occupation or operation of the Premises, the installation of any property thereon or the removal of any property therefrom that is done by the Lessee or its Agents. Lessee shall further indemnify Lessor against all actions, suits, damages, and claims by whoever brought or made by reason of the nonobservance or nonperformance of Lessee or its Agents of: (a) any obligation under this Lease; or (b) any federal, state, local law or regulation pertaining to Lessee's use of the Premises.

c. The Lessee shall obtain and keep in force, for the duration of this lease, a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Lease with adequate liability coverage over at least one million dollars for each occurrence and two million dollars in annual aggregate in general commercial liability coverage to protect the Lessee and the Lessor from suits for bodily injury and damage to property. Nothing in this provision, however, is intended to waive the immunity of the Lessor. Upon execution of this Lease, the Lessee shall furnish the Lessor with a certificate of insurance as verification of the existence of such liability insurance policy.

8. Lessee's Liability for Damages. Lessee shall be responsible to Lessor for any damages caused directly or indirectly by Lessee or its guests, servants or agents, including, but not limited to, interference or meddling with any tools, machinery, equipment, gates, buildings, furniture, provisions or other property of the Lessor on the Premises, its agents, employees or guests.
9. Tax Proration. Lessee shall pay when due all taxes levied on the personal property and improvements constructed by Lessee and located on the Premises. Lessor shall be responsible for any real property taxes levied on the Premises based on unimproved land. Lessor shall have no ownership or other interest in any of the Facilities on the Property and Lessee may remove any or all of the Facilities at any time.
10. Lease Assignment, Sublease and Colocation: Lessee shall not assign or sublease in whole or part without prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessor may lease the Premises for other compatible uses and colocation of other utilities so long as such rights do not extend to access to the Facilities, said uses will not prohibit the Lessee from complying with the conditions or requirements imposed by permitting agencies, and such use will not interfere with the rights herein conveyed, including the right to build such additional Facilities as may be accommodated on the Premises using transmission line spacing standards approved by the Maine Public Utilities Commission.
11. Lessee's Removal of Structures: Lessee must obtain Lessor's advance written consent, which consent shall not be unreasonably withheld, delayed, or conditioned, to the method of removal before any structures or improvements are removed from the Premises.
12. Surrender. Upon termination of this Lease for any reason, Lessee shall deliver the Premises to Lessor peaceably, without demand, and in reasonably good condition clear of all trash and debris, unusable equipment, unregistered vehicles and abandoned equipment and

structures, located on the Premises by Lessee or its Agents. If such trash and debris and other unusable equipment, unregistered vehicles, and abandoned equipment and structures are not removed within one hundred eighty days (180) days of the termination of this Lease, the Lessor shall thereafter have the right to remove it and Lessee shall reimburse Lessor for the costs of such removal and disposal. Any other personal property, fixture, or structure on the Premises belonging to Lessee shall be removed by Lessee, unless Lessor requests in writing, that the other personal property, fixture, or structure may remain and Lessee agrees in writing not to remove it. If the Lessee fails to remove such other personal property, fixture, or structure such items shall be deemed the property of the Lessor two hundred and ten days (210) days after termination of the Lease and the Lessor shall thereafter have the right to remove it and charge the Lessee with the costs of such removal and disposal. In the event that any of this other personal property, fixtures, or structures on the Premises are incapable of being removed within one hundred eighty days (180) days, Lessee may be allotted up to one year to remove the items, with prior written approval from Lessor, which approval shall not be unreasonably, delayed, or conditioned. Any holding over by Lessee without Lessor's prior written consent shall be considered a tenancy at sufferance.

13. Default.

a. The following constitutes a default under this Lease: (1) Lessee's failure to perform any of its monetary or nonmonetary obligations under this Lease; (2) the filing of any bankruptcy or insolvency petition by or against Lessee or if Lessee makes a general assignment for the benefit of creditors which is not resolved or withdrawn within 30 days of such petition being filed; (3) an execution, lien, or attachment issued against the Lease, the Premises, or Lessee's property on the Premises, unless Lessee provides Lessor with satisfactory assurances and evidence that such execution, lien, or attachment will be released within a reasonable time not to exceed ninety (90) days, unless a shorter period of time is provided for by any applicable law or proceeding for the removal thereof, in which case the more restrictive time limitation applies; (4) the assignment or sublease of this lease to any third party without Lessor's prior written consent; or (5) the violation of any state, federal or local law, rule, regulation, or ordinance; or (6) Lessee's abandonment of the leased premises.

b. Upon the occurrence of any such event of default and subject to any applicable cure period as defined in paragraph 6(m), above, Lessor may, in addition to (and not instead of) any other remedies available at law or in equity, terminate this lease with notice or demand to Lessee and enter and take possession of the leased premises. Lessee shall be liable to Lessor for loss and expense, including reasonable attorney fees, incurred by reason of such default or termination hereof Lessor will provide Lessee with written notice of an event or occurrence of default under paragraph 13(a)(1) and Lessee shall have a reasonable period of time, as determined by Lessor, to cure said default which period shall not exceed thirty (30) days; provided, however, that if Lessee satisfies to Lessor that Lessee has undertaken the appropriate actions to cure said default and such default has not been cured within the said time permitted, the Lessor may exercise its sole discretion to extend the cure period.

14. Statutory Authority Over Public Lands. Lessor shall have the right to request that this Lease be amended from time to time and throughout the term of this lease in the event

that any Lease term is found not to comply with Maine state law regarding the lease of property under 12 M.R.S. § 1852(4). Lessor shall send notice to Lessee of the proposed revision. Upon receipt of such notice, Lessee shall have the option to either terminate the Lease by notifying Lessor in writing within thirty (30) days of receipt of notice or negotiate an amendment to the Lease in order to bring such term in compliance with said state law. Except as provided in this Lease, neither Party shall have the right to terminate this lease unless the resulting non-compliance constitutes a default under Section 13 hereof, in which case Section 13 shall govern.

15. Mechanics Lien. If any notice is filed at the county registry of deeds of a builder's, supplier's or mechanic's lien on the Premises, arising out of any work performed by or on behalf of Lessee, Lessee shall cause such lien to be discharged or released immediately and shall indemnify Lessor against any such claim or lien, including all costs and attorney fees that Lessor may incur in connection with the same.
16. Succession; No Partnership. This Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of the parties hereto. Nothing in this agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation, or liability on or with regards to any of the parties to this agreement.
17. Waiver. Any consent, express or implied, by Lessor to any breach by Lessee of any covenant or condition of this Lease shall not constitute a waiver by the Lessor of any prior or succeeding breach by Lessee of the same or any other covenant or condition of this Lease. Acceptance by Lessor of rent or other payment with knowledge of a breach or default by Lessee under any term on this Lease shall not constitute a waiver by Lessor of such breach or default.
18. Force Majeure. Except as expressly provided herein, there shall be no abatement, diminution, or reduction of the rent or other charges payable by Lessee hereunder, based upon any act of God, any act of the enemy, governmental action, or other casualty, cause or happening beyond the control of the parties hereto.
19. Eminent Domain. In the event that the Premises or any portion thereof shall be lawfully condemned or taken by any public authority, Lessor may, in its discretion, elect either: (a) to terminate the Lease; or (b) to allow this Lease to continue in effect in accordance with its terms, provided, however, that a portion of the rent shall abate equal to the proportion of the Premises so condemned or taken. All condemnation proceeds shall be Lessor's sole property without any offset for Lessee's interests hereunder.
20. Holding Over. If Lessee holds over after the termination of this Lease, said hold over shall be deemed to be a trespass.
21. Lessor Protection. Lessor expressly retains and nothing contained herein shall be construed as a release or limitation by Lessor of any and all applicable liability protections under Maine law. Lessor specifically retains any and all protections provided under Maine law to owners of land, including but not limited to those provided under the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118.

22. Cumulative Remedies. The remedies provided Lessor by this Lease are not exclusive of other remedies available by current or later existing laws.
23. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions, and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes, or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.
24. Notices. All notice, demands, and other **communications** required hereunder shall be in writing and shall be given by first class mail, postage prepaid, registered or certified mail, return receipt requested; if addressed to Lessor, to:  
**State of Maine**, Department of Agriculture, Conservation and Forestry, Division of Parks and Lands,  
22 State House Station, Augusta, ME 04333-0022, Attn: Director;  
and if to Lessee, to;  
**Central Maine Power Company**, Real Estate Services  
83 Edison Drive, Augusta, Maine 04364, Attn. Supervisor, Real Estate
25. General Provisions:
- a. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of Maine.
  - b. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision. To the extent any provision herein is inconsistent with applicable state statute, the statute is deemed to govern.
  - c. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit, or construe the contents of such paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written. For purposes of this Lease, a facsimile signature shall be deemed an original.

Lessor:

**STATE OF MAINE**  
Department of Agriculture, Conservation, and Forestry  
Bureau of Parks and Lands

By: \_\_\_\_\_  
Thomas Morrison Acting Director

Dated: \_\_\_\_\_, 2014

\_\_\_\_\_  
Witness

Lessee:

**CENTRAL MAINE POWER COMPANY**

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Witness

## CMP Lease Amendment

### SUMMARY

3-17-15

- On December 15, 2014, DACF entered into a 25 year utility line lease with CMP for a new transmission line on Maine Public Reserved Lands in West Forks Plantation and Johnson Mountain Township.
- The lease had an estimated rent of \$1,400 which was paid by CMP at the time the lease was signed.
- Section 2 of the lease required an appraisal to be done within 12 months of the lease signing to determine what the rent should be. CMP paid for the appraisal.
- CMP had the appraisal completed in early spring of 2015 and the appraisal determined the rent to be \$3,680 for the first year.
- The attached Lease Amendment reflects the change in rent from \$1,400 to \$3,680 for the first year of rent.
- CMP has paid the rental increase of \$2,280 and is paid in full for the 2015 rental year.

**From:** [Freye, Kenneth H](#)  
**To:** [Rodrigues, David](#)  
**Cc:** [Armstrong, Elysabeth L](#); [Mirabile, Gerry J](#)  
**Subject:** West Forks Plantation Public Lot  
**Date:** Tuesday, June 2, 2015 5:09:23 PM  
**Attachments:** [image.png](#)  
[image.png](#)  
[image.png](#)

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David,

I hope you are doing well. I saw where Tom Morrison retired this spring. That must be big change. Here are several updates on the West Forks-Johnson Mountain lease:

- We have concluded the vernal pool assessment on the proposed corridor across the public lots in West Forks Plantation and Johnson Mountain. I do not have the final report yet but have been told that there are no significant vernal pools (SVP) in the corridor. One SVP was located easterly of the corridor in West Forks Plantation in the 100-foot wide strip that was assessed outside of the corridor. While the pool depression is entirely outside the corridor, the buffer area of this pool will extend into the corridor. I do not see where the location of this SVP creates any conflicts with the performance standards set forth in "Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects" that is a referenced condition to the lease for this corridor. I will send a copy of the report and map once I have them.
- CMP will begin survey work this summer and I will have a legal description and plat prepared for the lease area.
- Elysabeth sent a revised lease to you that amended the lease rate to include the negotiated value of the timber and changed the annual increase to a flat 2%. Let me know if you have any questions or comments.

Ken

*Ken Freye*

Dirigo Partners Logo\_342\_oct2013



*Agency Office - 79 Old Winthrop Road, Augusta, ME 04332 (207) 621.0600*

Kenneth Freye

*Maine Real Estate License #Br 108067*

Project Manager, Capital Projects, Real Estate Services – CMP Projects

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[kenneth.freye@CMPCO.com](mailto:kenneth.freye@CMPCO.com)

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