

THE STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

APPLICATION FOR SITE LOCATION OF DEVELOPMENT ACT PERMIT
AND NATURAL RESOURCES PROTECTION ACT PERMIT
FOR THE NEW ENGLAND CLEAN ENERGY CONNECT
FROM QUÉBEC-MAINE BORDER TO LEWISTON
AND RELATED NETWORK UPGRADES

PRE-FILED DIRECT TESTIMONY OF

GARNETT ROBINSON

ON BEHALF OF INTERVENOR GROUPS 2 AND 10

FEBRUARY 28, 2019

1 **Q. Please state your name and address.**

2 My name is Garnett Robinson, and my mailing address is PO Box 82, Dixmont, Maine 04932. I
3 own property located at 331 Moosehead Trail, Dixmont, ME 04932.

4 **Q. What are your general qualifications?**

5 I am a Certified Maine Assessor and Licensed Appraiser and have performed over 20 municipal
6 equalizations/revaluations in Maine (two more in progress). I am the current Assessor or
7 Assessors' Agent for 14 communities (and will be adding two more this spring). I have a
8 Bachelor's Degree in Land Use Planning. I have taught numerous appraisal and assessing courses
9 including being a long time instructor for Maine Revenue Services Property Tax school. I have
10 performed numerous complicated appraisals of industrial, commercial and residential properties
11 including large and small hydro-electric dams, sawmills, processing plants, railroads, hospitals,
12 etc. I have testified before numerous appellate Boards and Courts regarding valuation issues
13 including the Maine State Board of Property Review. I also am on the Dixmont Planning Board,
14 have served as past president of the Central Maine Assessor's Organization (CMAAO) and have a
15 background in forestry and mapping, having worked as a Forest Ranger and photogrammetrist
16 with my company still performing many municipal tax mapping projects. Please see my resume
17 attached as Exhibit 1.

18 **Q: What is the purpose of your testimony?**

19 The purpose of my testimony is to assess the proposed transmission line project with respect to
20 value considerations (economic impacts and benefits) of scenic character, existing uses, and
21 alternatives along with compensation and mitigation of impacts.

22 **Q. What have you reviewed to prepare this testimony?**

23 I reviewed the following:

- 1 1. NECEC Site Location of Development Application, NECEC Natural Resources Protection Act
2 Application and all NECEC associated available documents, maps, photos located on the Maine
3 Department of Environmental Protection Website.
- 4
- 5 2. Applicable statutes and regulations: 38 M.R.S. § 480-D(1), 38 M.R.S. § 480-D(3), DEP Rules
6 Chapters 315 and 375 § 14; 38 M.R.S. §§480-D(1)&(3), 38 M.R.S. § 484(3), DEP Rules Chapters
7 310, 315 and 335; 38 M.R.S. § 480-D, 38 M.R.S. § 484(3), DEP Rules Chapters 310 and 375 §
8 15.
9
- 10 3. Detailed Portions of the NECEC Site Location of Development Application dated October 2,
11 2017, including:
12
 - 13 a. Section 1.0; Development Description
 - 14
 - 15 b. Section 3.0; Financial Capacity
 - 16
 - 17 c. Section 6.0; Visual Quality And Scenic Character
 - 18
- 19 4. General Questions for CMP dated December 11, 2017
- 20
- 21 5. Supreme Judicial Court of Maine ruling: *Francis Small Heritage Trust, Inc. v. Town of*
22 *Limington et al.*, 2014 ME 102, 98 A.3d 1012, 2014 Me. LEXIS 110, 2014 WL 3867782 (Me.
23 Supreme Ct. May 15, 2014).
- 24
- 25 6. Various online websites and programs such as Google Earth, Newspaper Articles and
26 Selectman e-mails.
- 27
- 28 7. Williams, Juliet & Thompson, Don (2018, June 9). *Report: Downed power lines sparked deadly*
29 *California fires*. Retrieved from [https://phys.org/news/2018-06-downed-power-lines-deadly-](https://phys.org/news/2018-06-downed-power-lines-deadly-california.html)
30 [california.html](https://phys.org/news/2018-06-downed-power-lines-deadly-california.html)
- 31

32 **Q. What concerns, if any, do you have with the Application before the DEP and LUPC?**

33 I do have concerns. First, the reliability and honesty of any company are important considerations
34 when reviewing permitting and valuation issues. In section 3.2, cost estimates, of CMP's NECEC
35 Site Location of Development Application (the "Application"), MDEP has determined that "the cost
36 estimates provided by CMP in support of this application are protected from disclosure as a trade
37 secret and are being withheld as such." Despite this declaration CMP representatives have given
38 detailed valuation and tax/revenue estimates to towns to sway support of this project with no way to
39 evaluate their assertions. See attached e-mail thread from CMP's John Carrol to Elizabeth Caruso 1st
40

1 Selectman of Caratunk. (*See* Exhibit 2)

2 In section 3.1 (Introduction) and section 3.3 (Financing of Similar Size and Technology) of the
3 Application, CMP cites to the Maine Power Reliability Program (“MPRP”) as an example of their
4 ability to complete a project on time and on budget. CMP states, “as discussed above, in 2015 CMP
5 completed the 1.4 billion MPRP.” I am very familiar with this project having been on the Dixmont
6 Planning Board and as the Assessors’ Agent of Revaluation company working in numerous towns
7 affected by this utility expansion. My experience on the Dixmont Planning Board and work as the
8 Dixmont Assessors’ Agent taught me that I could not readily trust materials filed by CMP regarding
9 estimated costs or reported values at the end of their projects. For example, the Dixmont Planning
10 Board received a signed application estimating 24 million dollars to build in June 2009 (*See* Exhibit 3,
11 Part B Dixmont Maine Shoreland Zoning and Site Plan Review for the Maine Power Reliability
12 Program – “MPRP”) with a declared value in 2015 of \$4,256,181.03 after project completion. (*See*
13 Exhibit 4, CMP Property Tax Declaration for 2015) This is signed by Gerard Morin, Jr and the filing
14 is done under Title 36 MRSA section 706 “Taxpayers to list property, notice, penalty, verification”
15 (*See* Exhibit 5) also known as a true and perfect list and is certified by CMP at 100%. This shows a
16 ratio of declared value of \$4, 256,181.03 based on the “Cost Approach” to the estimated cost of \$24
17 Million at 17.73%. This statement led the Planning Board, Board of Selectman/Assessors and me to
18 question if CMP was incompetent, made an error, or purposely mislead the Board on their MPRP
19 permit values, or conversely, were incompetent, made an error, or purposefully attempted to evade
20 property taxes on their declaration of values. If this was one instance of an erroneous calculation, I
21 would write it off as an error, but I am also the Town of Detroit’s Assessors’ Agent. Please see CMP’s
22 MPRP Shoreland Zoning and Floodplain Management Application (Exhibit 6) with an estimated cost
23 of construction of \$28.8 million along with CMP’s Property Tax Declaration (Exhibit 7) where new
24 transmission lines and substations were declared under Title 36 MRSA section 706 at 100% value at
25 \$10,436,407.45 or a ratio of 36.24%. This is also signed by Gerard Morin, Jr. To summarize, my

1 concern with CMP's Financial Capacity, section 3.0 of its Application, it is not that CMP may not
2 have the financial capacity to complete the project, but that in sections 3.1, 3.2 and 3.3 they refer to
3 and depend heavily on their performance in their past MPRP project as an example of their good work
4 and performance. However, as shown above with only two examples, (and there are many more)
5 either their estimates of cost are purposefully inflated or flawed, or their estimates of tax
6 benefits are either flawed or purposefully high. This leads to questions like: are CMP's
7 estimated costs to build NECEC also inflated or flawed? Likewise, are the tax and other benefits being
8 suggested to towns and parties dependable? Since CMP's Application depends so heavily on the
9 former MPRP, I would think it would be helpful for the Commission and Department to have a third-
10 party audit of actual costs of MPRP versus projected costs of MPRP along with an audit of projected
11 tax benefits/values versus legally declared values to make sure that that project numbers are reliable in
12 the NECEC
13 applications.

14 **Q. Did you find any negative effects on the Scenic Character and Existing Uses and are they**
15 **addressed in the Application materials you reviewed?**

16 A. In my opinion, there will be many properties, if not most, located in the region surrounding
17 the 53.5 mile segment of new corridor beginning at the Canadian Border in Beattie Twp and
18 ending at the intersect of Section 222 in the Forks area shown as segment 1 in table 1-1 of the
19 Application, that will be negatively impacted because of change in scenic character and
20 degradation of view sheds. Most seasonal and year-round residences that go on the market in this
21 area are advertised as having four-season recreational opportunities in the Western Mountains of
22 Maine where beautiful views abound or similar statements about views and proximity to natural
23 resources. Individual property views degraded by loss of scenic vistas/views such as with my
24 camp located on Pierce Lane off Old Rt 201 in the West Forks Plt., which has been owned by my

1 family since around the Kennebec Purchase and has spectacular views of the South Flank of
2 Johnson Mountain with Coburn in the background will obviously be effected as the views go from
3 wooded mountain to industrial poles, the height of which may require lights in elevated areas such
4 as on the Mountain. (Note: No pictures were taken for project applications from Pierce Lane or
5 my camp) Other negative impacts to view and value which are more common with Projects like
6 NECEC are the loss of buffers in the remaining segments of the corridor listed as 2 to 5 in table 1-
7 1. My opinion is based on my knowledge of what happened after the MPRP expanded corridors
8 and infrastructure in towns where I assess or revalued. For example, in my assessment in Dixmont,
9 Orrington and Swanville I had to make numerous downward economic adjustments to assessments as
10 required in Title 36 MRSA section 701 A Just Value Defined (*See Exhibit 8*) to account for loss of
11 buffers which altered properties with typical wooded views to properties with views of industrial
12 development, poles and substations. Larger negative adjustments, based on proximity to new
13 power lines, were required because, whether real or perceived, many people think living in close
14 proximity to powerlines and utility corridors as dangerous due to chemical defoliant utilized in
15 corridors, stray voltage, EMF radiation and even danger of fire such as the dozen fires caused by
16 non-insulated Pacific Gas and Electric Company Powerlines that killed 15 people in California.
17 (*See Exhibit 9*).

18 **Q. Did you review the VIA CMP filed in the context of your assessment of the Scenic/Aesthetic**
19 **Uses and the Alternatives Analysis?**

20 Yes. Often overlooked in a project of this type are the regional and statewide value of views. It is
21 obvious CMP attempted to identify view sheds affected in Section 6.0 of the Application but it
22 failed to assess the context of regional views left untouched by man-made structures. Driving
23 North from Bingham all the way to the overlook in Jackman, there are only two major road
24 systems that run West through Eustis and towards Canada: the Lower Enchanted Road and the

1 Upper Enchanted or Spencer Road. If you drive the Lower Enchanted Road the 15 miles or so to
2 Grand Falls, you will find multiple locations where the windmills of the Kibby Project are visible,
3 especially at night with rows of blinking red lights. Similarly, the Attean Overlook has views of
4 Canadian windmills across its whole Northern exposure. Upper Enchanted Road is the only large
5 road system running West toward the Canadian Border between Bingham and Jackman with
6 unimpacted scenic vistas. The same is true for the Kennebec River. The gorge running from
7 Harris Dam to the Gauging Station in the West Forks is the only long section of river not crossed
8 or having roads run parallel with powerlines, houses, etc. all the way to the Atlantic Ocean.
9 Clearly there are many more views impacted by the chosen route than the alternative route which
10 would have turned South from Beattie onto the Gold Brook Road which is only about 3 miles to
11 the start of the Kibby Wind Project. It is clear from site visit photos that water crossings/views
12 were the major impacts reviewed as there do not appear to be any photos of prominent scenic
13 vistas seen often as you travel in on the Spencer Road. It is also clear that there are no visitor
14 surveys or economic impact studies conducted for loss of jobs and associated income for tourist
15 industry jobs heavily dependent on these views. Section 6.1.7 Working population, the applicant
16 clearly has huge errors here as it states the working population includes people who are employed
17 throughout Northern Maine in commercial timber harvesting then goes on to describe central and
18 Southern Maine. The primary employer(s) in the area of the 53.5 mile new section of line in
19 segment 1 is the tourism industry with hundreds of jobs guiding through rafting, hunting, fishing,
20 “recreation biking, hunting, snowmobiling, 4 wheeling, antler hunting, canoeing, moose tours,
21 etc.”, and at sporting camps, time shares, photographers, snowmobile/4 wheeler rentals, restaurant
22 employees, small stores, campgrounds, etc. which are all largely dependent on tourists visiting
23 with views being a significant part of the reason. Anyone who has ever valued commercial

1 properties realizes that the income approach is the best way to appraise or test the other 2
2 approaches to value: the sales comparison (market) and Cost Approach and that loss of net
3 operating income (NOI) due to the proposed project will lower property values. Additionally, loss
4 of numerous jobs in the tourist industry could reduce residential housing prices as residents leave
5 the area for jobs elsewhere. We have examples where large numbers of jobs left due to loss of a
6 large employer, leaving behind an oversupply of housing stock which drove property values down
7 include Millinocket, East Millinocket and Madison. Other industry that will probably be affected
8 by this project include Maine Power Generators, including hydro-electric, gas, biomass, waste
9 power generators, windmills and solar farms. Lower contract prices in Power Purchase
10 Agreements will also likely lead to lower valuations, tax abatements and possible loss of jobs.

11 **Q. Has CMP demonstrated through their Application that they have adequately considered**
12 **alternatives?**

13 No they have not. Section 2.3.2 of the Application, Transmission Alternatives, does not list
14 burying the line in the 53.5 mile new section as an alternative. CMP rejected this alternative with
15 a statement in their materials that burying cable costs between 4 to 10 times more than above
16 ground costs but was not supported by any documentation or analysis. Only two small areas
17 involving the Kennebec River and Appalachian Trail crossings were considered for burial in the
18 materials I reviewed. Burying the line would mitigate most effects from view or from hazards
19 such as forest fires. Competing proposals to the NECEC in both New Hampshire and Vermont
20 featured the majority of new lines buried as part of their proposals and permitting and should have
21 been a consideration here. As clearly required by DEP 310.5 (A) a project will not be permitted if
22 there are practicable alternatives that would meet the project purpose and have less environmental
23 impact. Without an in-depth analysis of costs to bury the cable and only a simple statement that it

1 costs four to ten times more, how can the Department and Commission consider the
2 reasonableness of not including this alternative, that apparently is being more commonly
3 considered in large projects of this nature? Without a cost analysis and an analysis of projected
4 revenue over the life of the project how can the Department and Commission consider even the
5 four to ten times the cost to be unreasonable? Anticipated revenue over long term may justify this
6 type of expenditure and more but because of missing documentation the Department and
7 Commission cannot even make those determinations. Further, within the Compensation and
8 Mitigation analysis, businesses affected by the proposed project appear to consist only of the
9 effects on the Kennebec River crossing but largely avoids analysis of many other businesses that
10 will be affected by this project. Analysis is needed and should have been performed to identify
11 numbers of visitors to the region by season, activities they participated in, factors that drew them
12 to the area such as snowmobiling, hunting, fall leaf peeping, etc. the amount of money spent and
13 their perception of proposed impacted views and their likelihood to visit the area after such a
14 project is completed. Likewise an analysis of regional jobs by type and economic impact of any
15 anticipated loss of revenues both long term and during construction should have been performed.
16 Mitigation should include all businesses harmed by this project, not just rafting companies.
17 Additionally, seasonal and residential properties that will have impacted views, loss of buffers, or
18 lower values due to being closer to large overhead powerlines should be considered. Finally, to
19 remind the Department and Commission, Maine's Supreme Court's decision, Francis Small
20 Heritage Trust, Inc. v. Town of Limington, et al. (*See Exhibit 10*) which gave Land Trusts tax
21 exemptions for charitable and benevolent organizations found that there is a public benefit and
22 need to protect scenic views, rare mountain habitats, rivers, etc., and referenced the legislature and
23 statutes that are relevant in reviewing the NECEC project:

1 There can be little doubt that the Legislature has enunciated a strong public policy in favor
2 of the protection and conservation of the natural resources and scenic beauty of Maine. For
3 example, 38 M.R.S. § 480-A (2013) states: The Legislature find and declares that the
4 State's rivers and streams, great ponds, fragile mountain areas, freshwater wetlands,
5 significant wildlife habitat, coastal wetlands and coastal sand dunes systems are resources
6 of state significance. These resources have great scenic beauty and unique characteristics,
7 unsurpassed recreational, cultural, historical and environmental value of present and future
8 benefit to the citizens of the State and that uses are causing the rapid degradation and, in
9 some cases, the destruction of these critical [***19] resources, producing significant
10 adverse economic and environmental impacts and threatening the health, safety and
11 general welfare of the citizens of the State. The Legislature further finds and declares that
12 the cumulative effect of frequent minor alterations and occasional major alterations of
13 these resources poses a substantial threat to the environment and economy of the State and
14 its quality of life. *See also* 5 M.R.S. § 6200 (2013) (finding that "the continued availability
15 of public access to [outdoor] recreation opportunities and the protection of the scenic and
16 natural environment are essential for preserving the State's high quality of life" and that the
17 "public interest in the future quality and availability for all Maine people of lands for
18 recreation and conservation is best served by significant additions of lands to the public
19 domain"); 30A M.R.S. § 4312(3)(F) (2013) (identifying the protection of "critical natural
20 resources, including without limitation, wetlands, wildlife and fisheries habitat, sand
21 dunes, shorelands, scenic vistas and unique natural areas" as a state goal). In creating the
22 Land for Maine's Future program, the Legislature declared that the future social and
23 economic well-being of the citizens of this State depends upon maintaining the quality and
24 availability of natural areas for recreation, hunting and fishing, conservation, wildlife
25 habitat, vital ecologic functions and scenic beauty and that *the State, as the public's*
26 *trustee, has a responsibility and a duty to pursue an aggressive and coordinated policy to*
27 *assure that this Maine heritage is passed on to future generations.*

28
29 **Q. Does this conclude your testimony?**

30
31 Yes, it does.

Criteria Beyond the Scope of the Hearing

Section 1.6 of the Application, Economic Benefits of the Project During the Construction Phase, only considers positive effects of temporary and seasonal employment during construction of the corridor but has done no analysis of job loss due to possible reduced tourism, which should be a consideration both during and after construction. Analysis, and reporting of other regional jobs at risk once the Project is online such as with power generators and loggers supplying Biomass Plants, is needed as well for such a massive landscape altering project such as this. Additionally, CMP asserts “Transmission infrastructure investments on the NECEC Project are expected to increase municipal property valuations relative to the cost of the investment expenditures. Based on existing mill rates and tax revenue resulting from NECEC Project infrastructure is estimated to be contributed on an annual basis following construction.” If you consider CMP’s past performance during the Maine Power Reliability Program this statement is doubtful. It fails to include any analysis for decreased valuation of properties effected from impacted views, loss of buffers, closer proximity to utility infrastructure and corridors, or lower revenues for Businesses. Their statement “The additional supply of renewable clean power is expected to provide wholesale electricity cost reductions to New England ratepayers resulting in significant positive economic benefits to businesses and residential customers,” is similarly unsupported but if true, would also support a conclusion that towns with existing significant power generation industry could see those plants lose value due to lower contract prices for electricity on the ISO-New England market.

1 Q Does this conclude your testimony?

2 A Yes.

Date:

Respectfully submitted,

By: 

Print Name: Garnett S. Robinson

STATE OF MAINE

COUNTY OF PENOBSCOT

Personally appeared before me on the above- named Garnett S. Robinson, who being duly sworn, did testify that the foregoing testimony was true and correct to the best of his/her knowledge and belief.

Before me,



Notary Public/ ~~Attorney at Law~~

My Commission expires _____

SHIRLENE D. LINDSEY
NOTARY PUBLIC
STATE OF MAINE
MY COMMISSION EXPIRES JANUARY 7, 2025

Garnett S. Robinson
 Phone: (207) 234-2822 Fax: (207) 234-2822

P.O. Box 82
 Dixmont, Maine 04932

SKILLS

- Land Use Planning and Permitting Specialist B.S. Major: Land Use Planning
- Certified Maine Assessor (CMA)
- Certified Code Enforcement Officer-Inactive
- Knowledge of NEPA, ISO 14001 and environmental permitting procedures
- Working Knowledge of PCs, including Windows, Excel, GIS, Trio, and various C.A.M.A.software
- Appraiser Registration # AP2609
- Instructor-Maine Property Tax School (2005 to Present)

EXPERIENCE

August 2003 — Present

Maine Assessment and Appraisal Services - Dixmont, Maine
 President
 Property Assessing, Mapping, Appraisal and Revaluation services.

June 2003 to June 2008

R & G Appraisal Services - Orneville, Maine
 Fee Appraiser doing residential and commercial' properties.

January 2006 to January 2008

Central Maine Association of Assessing Officers (CMAAO)
 President (2Terms)
 Organization set up to offer training and materials to newly elected selectmen/assessors.

December 2000 December 2004

Hamlin Associates - Parkman, Maine
 Vice President-Assessors' Agent
 Property Assessing, Mapping Upgrades and Revaluation Services.

June 1999- June 2000

James W. Sewall Co. - Old Town, Maine
 Photogrammetrist- Digitally compiled detailed Planimetric and Topographicai maps from aerial photography

May 1990 - May 1999

Maine Forest Service - Jackman, Maine
 Patrolled to enforce conservation laws, including DEP, LURC, FPA, and fire control.
 Supervised and trained fire crews. Coordinated payroll reports, ensuring accuracy and timely completion. Assisted with updating maps for the Delorme Atlas Company.
 Maintained permit sites and oversaw equipment maintenance. Assisted other government agencies.

EDUCATION

May 2001, Suma Cum Laude Honors Graduate University of Maine- Orono, Maine
 B.S. Major: Land Use Planning; Member of Phi Kappa Phi Honor Society & Presidential Scholar
 August 2001, Certificate: Certified Maine Assessor, Property Tax Division, State of Maine
 Certificate: Certified Code Enforcement Officer, State Planning Office- Shoreland- #0725
 September 1993, Certificates: Forest Ranger- Maine Forest Service Ranger Academy
 September 1990, Certificate: Conservation Officer, Law Enforcement Academy at Waterville
 1989-1990 Forest Management Courses (Dean's List), University of Maine - Orono, Maine
 1989, Associates Degree, Liberal Studies (Dean's List), University of Maine - Orono, Maine
 2001 -Present, USPAP, IAAO, and many advanced appraisal courses.

Elizabeth Caruso

From: Carroll, John H. [john.carroll@avangrid.com]
Sent: Thursday, September 6, 2018 12:02 PM
To: Elizabeth Caruso
Subject: RE: Retraction of support

Elizabeth,

Thanks for getting back to me. As you note, you and I had some discussions about the WMRC, but I think it would be valuable to address that with the board as well as the broader set of issues noted in your letter. For example, your concern that the NECEC is “blocking access to solar or other energy projects in Caratunk and Somerset County” is entirely mistaken. For example, a major solar farm is presently under review in Farmington, and any such “blocking” would be just as likely to affect that project as anything that might be built in Somerset County, but that is clearly not the case.

Regarding the proposed NextEra solar farm, that facility was actually included in one of CMP’s competing proposals in the Massachusetts process. Unfortunately for your community, the state of Massachusetts simply didn’t select it because it didn’t fit their needs. If your intent in not supporting the NECEC is to stop the project, you should probably recognize that it would not open the way for the NextEra solar farm. Thus, while the NECEC would increase tax payments to Caratunk by about \$100,000 annually, stopping the project will not ensure future tax revenues from a solar project in Caratunk—your community will simply miss out on this opportunity.

We think it would be valuable to discuss all of these concerns with the full Board of Selectmen, so I repeat my request to be allowed time on the public agenda at the earliest possible date.

Thank you,

John Carroll

From: Elizabeth Caruso [mailto:caratunkselectmen@myfairpoint.net]
Sent: Wednesday, September 05, 2018 2:37 PM
To: Carroll, John H.
Subject: RE: Retraction of support

Dear John,

The Town has somewhat detailed our concerns in our letters requesting intervention with the DEP and LUPC and our public comments provided to the PUC and MPU. I’m sure someone at CMP has taken note.

In regards to our concerns, I had already indicated to you a few of our concerns over the phone (lack of representation on WMRC) and at our Selectmen's meeting (solar project and multiple areas of concerns crossing the river and pristine areas).

Elizabeth Caruso
First Selectman
Town of Caratunk
207.672.3030

From: Carroll, John H. [mailto:john.carroll@avangrid.com]
Sent: Tuesday, September 4, 2018 12:12 PM
To: Elizabeth Caruso
Subject: RE: Retraction of support

Dear Selectwoman Caruso:

We are disappointed by the Board's decision regarding the NECEC, but we will amend our materials as you ask. Since we continue to believe the project would provide much needed benefits to Caratunk and all of Maine, could you tell me what issues led the Board of Selectmen to conclude that the project will be harmful to your town?

I apologize if we missed a meeting with the Selectmen, but I want you to know that we would have attended had we been aware that you were taking this matter up again. Also, I would like to request formally another meeting with the Selectman in September regarding the concerns that led the board to reverse its position.

As a related matter, do you know if Caratunk will continue to engage with Western Mountains and Rivers Corporation? We believe the memorandum of understanding with that group includes numerous benefits for the region, and the Caratunk was expected to be among the communities that would have representation on the board.

John C.

From: Elizabeth Caruso [mailto:caratunkselectmen@myfairpoint.net]
Sent: Friday, August 31, 2018 7:42 PM
To: Carroll, John H.
Subject: Retraction of support

Dear John,

I am writing to you to ask that you would please correct the record and remove Caratunk from your list of towns in "support" of your NECEC. It is reasonable and important that CMP **not list** the Town of Caratunk on your map as a town in support of this project. Although we had initially issued a letter in support, as you are aware, we have since found reasons that this project is harmful to Caratunk. Please remove our letter of support from **any existing or future** CMP communications regarding the NECEC.

I appreciate for your time and attention in responding to this matter.

Elizabeth Caruso
First Selectman
Town of Caratunk
207.672.3030

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**PART B:
SHORELAND ZONING PERMIT APPLICATION**

GENERAL INFORMATION

1. Applicant	2. Applicant's Address	3. Applicant's Tel. #
Central Maine Power Company	83 Edison Drive Augusta, Maine 04336	(207) 623-3521
4. Property Owner	5. Owner's Address	6. Owner's Tel. #
Central Maine Power Company	83 Edison Drive Augusta, Maine 04336	(207) 623-3521
7. Contractor	8. Contractor's Address	9. Contractor's Tel. #
10. Location/Address of Property	11. Tax Map/Page & Lot #	12. Zoning District
Central Maine Power Transmission Line Corridor (See Exhibit 1, attached)	See Deed Reference Table (Exhibit 6, attached).	Stream Protection (3), Resource Protection (1)
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS (PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED).		
See attached application text, drawings, and maps.		
14. Proposed Use of Project	15. Estimated Cost Of Construction	
Essential Service -- Electric power transmission.	\$24 million	

Project Overview Map

Configuration Cross Section

2015

Valuations



**CENTRAL MAINE
POWER**

Acct #90

Map 20 lot 7

April 27, 2015

RE: 2015 Property Tax Declaration

To: Municipal Assessing Officer(s)

Enclosed is the Central Maine Power Company's (CMP) Property Tax Declaration (Declaration) for the 2015 property tax year. The Declaration is for real and personal property owned or otherwise reported for local ad valorem property tax purposes by CMP and located in your jurisdiction.

The Declaration is designed to both facilitate the method in which CMP reports its' real and personal property, and to create a concise and usable format. It is also intended to constitute the same information as would be provided on a true and perfect list as required under 36 M.R.S.A., Section 706, irrespective of whether such a request has been made for the current tax year.

Since CMP voluntarily files the Declaration on an annual basis, we request that any assessment placed on CMP property be properly equalized with all other classes of property within the jurisdiction.

We also request and hereby authorize the assessor(s) to value CMP's land, wherever and whenever possible, as one contiguous parcel without regard to roads, railroads or other public rights of ways in accordance with 36 M.R.S.A., §701(A). To the extent possible, CMP requests that the transmission and distribution, substation, and personal property assessment accounts, if any, be separately assessed from any other real property that the Company may own in this jurisdiction.

As a reminder, the responsibility for CMP's property tax management has been transferred to Iberdrola USA Management Corporation (IUMC) parent company of CMP. CMP remains the owner of record for assessment purposes. All property tax assessment correspondence and property tax bills should be mailed to:

Central Maine Power Company
IUMC - Local Taxes
70 Farm View Drive
New Gloucester, Maine 04260

CMP's corporate office remains at 83 Edison Drive, Augusta, ME 04336, (tel. 207-623-3521). All non-tax related mail including planning board, abutter notices, and real estate should be mailed to the Augusta address.

If you have any questions regarding valuation or related property tax management issues, please contact Stephen Holt at 207-688-6068, stephen.holt@iberdrolausa.com. If you have questions involving information contained in the Declaration or tax bills, please contact Shari Irish at 207-688-6067, shari.irish@iberdrolausa.com. We would be pleased to discuss any matters with you prior to your commitment date. Thank you for your attention and cooperation.

Respectfully submitted,

Gerard R. Morin, Jr.
Manager - Local Tax & Audit Management
207-688-6130

Enclosure: 2015 Tax Year Declaration



Iberdrola USA Management Corporation 70 Farm View Drive New Gloucester, ME 04260

**Central Maine Power Company
Property Tax Declaration
2015
Dixmont
Penobscot County**

REAL ESTATE

I. LAND

Description

A strip of land 218 feet in width extending from land of Herbert N. Smith and the Troy Town Line in a general southeasterly direction to land of Charles S. Porter and the Monroe Town Line, used as right of way for transmission line section 203. The area is about 170 acres

<u>Map/Lot</u>	<u>Grantor</u>	<u>Acres</u>	<u>Date of Purchase</u>	<u>Book/Page</u>
		170		

map 5 lot 60 & 60-1/land and residence for MPRP Transmission line from Gregory Henderson. Will be selling the residence at a later date. 10/17/2013 sold 5-60 land and Mobile home to Cunningham & Rabisz

<u>Map/Lot</u>	<u>Grantor</u>	<u>Acres</u>	<u>Date of Purchase</u>	<u>Book/Page</u>
5/ 60 & 60-1	Gregory Henderson	15	01/10/2012	12701/350

Purchased 18 acres-Residence - Gregory Henderson

<u>Map/Lot</u>	<u>Grantor</u>	<u>Acres</u>	<u>Date of Purchase</u>	<u>Book/Page</u>
5-60 & 5-60-1	Gregory Henderson	18	01/05/2012	B4476-P350

Small triangular shaped lot of land on westerly side of the East Dixmont Road and northeasterly of the right of way for transmission line section 203. Land outside of right of way. Acquired by deed from Laura R. Morse dated April 30, 1930, Penobscot Registry, Book 1048, Page 300. The area is about 0.2 a

<u>Map/Lot</u>	<u>Grantor</u>	<u>Acres</u>	<u>Date of Purchase</u>	<u>Book/Page</u>
	Laura Morse	.2	04/30/1930	1048-300

Triangular shaped lot bounded on the south by the Monroe Town Line and northeasterly by the southerly side of the right of way for transmission line section 203. Land outside of right of way. Acquired by deed from Charles S. Porter dated April 5, 1930, Penobscot Registry, Book 1046, Page 218. The area is about 1.13 acres.

<u>Map/Lot</u>	<u>Grantor</u>	<u>Acres</u>	<u>Date of Purchase</u>	<u>Book/Page</u>
	Charles S Porter	1.13	04/05/1930	1046-218

Triangular shaped lot of land on the westerly side of the North Dixmont Corner Road and northeasterly of right of way for transmission line section 203. Land outside of right of way. Acquired by deed from Charles H. Philbrick dated May 10, 1930, Penobscot Registry, Book 1046, Page 339. The area is about 1.7 acre

<u>Map/Lot</u>	<u>Grantor</u>	<u>Acres</u>	<u>Date of Purchase</u>	<u>Book/Page</u>
	Charles Philbrick	1.7	05/10/1930	1046-339

Triangular shaped lot on south side of South Dixmont Road and northeasterly of right of way for transmission line section 203. Land outside of right of way. Acquired by deed from John R. Read, dated April 9, 1930, recorded in Penobscot Registry, Book 1046, Page 219. The area is about 0.72 acre

<u>Map/Lot</u>	<u>Grantor</u>	<u>Acres</u>	<u>Date of Purchase</u>	<u>Book/Page</u>
	John R Read	.72	04/09/1930	1046-219

Dixmont
2015 TAX YEAR TRANSMISSION AND DISTRIBUTION PROPERTY

ITEM II - TRANSMISSION LINES

Section Number	Voltage (KV)	Structure Description	Miles of Line	Unit Values	Valuation
2030	115 KV	Wood, Single Pole	6.60	\$ 228,519	\$ 1,508,225.40
3023	345 KV	Wood Poles	6.51	\$ 422,113	\$ 2,747,955.63
				Subtotal	\$ 4,256,181.03

\$1.1 million/mile x 6.6 = 7,260,000
8,463,000
15,723,000

1.3 million/mile

Note: Steel structure investments, if any, are included in the Unit Value and Valuation.

ITEM III - DISTRIBUTION SYSTEM (Aerial)

Property Class	Quantity	Unit Values	Valuation
A. Poles			
Wholly Owned	1194	\$ 422	\$ 503,868.00
Jointly Owned	0	\$ 327	\$ 0.00
B. Conductors			
Primary/Secondary Conductor	46.16	\$ 9,091	\$ 419,640.56
Street Light Conductor	0.00	\$ 3,268	\$ 0.00
C. Street Lights			
Fixtures	6	\$ 258	\$ 1,548.00
D. Yard Lights			
Fixtures	6	\$ 105	\$ 630.00
E. Service Meters & Related Equipment			
Meters	520	\$ 451	\$ 234,520.00
			Subtotal
			\$ 1,160,206.56
Total Transmission and Distribution*:			\$ 5,416,387.59

1,160,206.56 x 1.1

1,160,206.56
x 1.1
1,276,227.22

* Total is at 100% prior to adjustment by certified ratio.

The unit value for service meters and related equipment includes ALL investment for meters, service drops, miscellaneous hardware, distribution transformers and regulators located in this jurisdiction. The valuation for distribution property includes conductors, insulators, guys, line transformers and other appurtenant equipment investment owned by this company but attached to poles owned by another utility declared herein.

17,463,309.81
method 1

1,276,227.22 Distribution at 110%

Dedoff method 2 Permitted Estimated Value \$24,000,000 x .67

15,723,000 Above + = 16,080,000

15,901,500 Ave Powerline
1,276,230
17,177,730
Dixmont

**DIXMONT
2015 TAX YEAR UNDERGROUND SERVICE**

<u>Class</u>	<u>Miles</u>	<u>Original Cost</u>	<u>Valuation</u>
Distribution	0	\$3,069	\$2,148
		Total	\$2,148


DIXMONT

2015 Personal Property

Communication Equipment		\$9,450
	Total	<u>\$9,450</u>

Date: April 27, 2015

Central Maine Power Company

By: 

§705. County commissioners may appoint assessors; procedure

If for 3 months after any warrant for a state or county tax has been issued, a municipality which is not part of a primary assessing area or is not a primary assessing area has neglected to choose assessors, or the assessors chosen have neglected to assess and certify such tax, the Treasurer of State or of the county may so notify the county commissioners.

On receipt of such notification the county commissioners shall appoint 3 or more suitable persons in the county to be assessors for such municipality. New warrants shall be issued to such assessors, which said warrants shall supersede the state and county warrants originally issued to the assessors of the delinquent municipality.

Assessors appointed under this section shall be duly sworn; shall be subject to the same duties and penalties as other assessors; and shall assess upon the polls and estates of the municipality its due proportion of state and county taxes, and such reasonable charges for time and expense in making the assessment as the county commissioners may approve, which said charges shall be paid from the county treasury.

§706. Taxpayers to list property, notice, penalty, verification

Before making an assessment, the assessor or assessors, the chief assessor of a primary assessing area or the State Tax Assessor in the case of the unorganized territory may give seasonable notice in writing to all persons liable to taxation or qualifying for exemption pursuant to subchapter 4-C in the municipality, primary assessing area or the unorganized territory to furnish to the assessor or assessors, chief assessor or State Tax Assessor true and perfect lists of all their estates of which they were possessed on the first day of April of the same year.

The notice to owners may be by mail directed to the last known address of the taxpayer or by any other method that provides reasonable notice to the taxpayer.

If notice is given by mail and the taxpayer does not furnish the list, the taxpayer is barred of the right to make application to the assessor or assessors, chief assessor or State Tax Assessor or any appeal from an application for any abatement of those taxes, unless the taxpayer furnishes the list with the application and satisfies the assessing authority or authority to whom an appeal is made that the taxpayer was unable to furnish the list at the time appointed.

The assessor or assessors, chief assessor or State Tax Assessor may require the person furnishing the list to make oath to its truth, which oath any of them may administer.

The assessor or assessors, chief assessor or State Tax Assessor may require the taxpayer to answer in writing all proper inquiries as to the nature, situation and value of the taxpayer's property liable to be taxed in the State or subject to exemption pursuant to subchapter 4-C. As may be reasonably necessary to ascertain the value of property according to the income approach to value pursuant to the requirements of section 208-A or generally accepted assessing practices, these inquiries may seek information about income and expenses, manufacturing or operational efficiencies, manufactured or generated sales price trends or other related information. A taxpayer has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. Information provided by the taxpayer in response to an inquiry that is proprietary information, and clearly labeled by the taxpayer as proprietary and confidential information, is confidential and is exempt from the provisions of Title 1, chapter 13. An assessor of the taxing jurisdiction may not allow the inspection of or otherwise release such proprietary information to anyone other than the State Tax Assessor, who shall treat such proprietary information as subject to section 191, subsection 1, except that the exemption provided in section 191, subsection 2, paragraph 1 does not apply to such proprietary information. As used in this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available and information protected from disclosure by federal or state law or regulations. A person who knowingly violates the confidentiality provisions of this paragraph commits a Class E crime.

A taxpayer's refusal or neglect to answer inquiries bars an appeal, but the answers are not conclusive upon the assessor or assessors, chief assessor or State Tax Assessor.

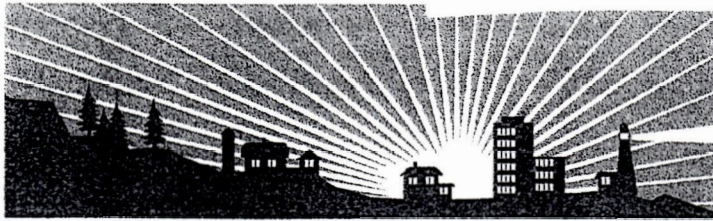
If the assessor or assessors, chief assessor or State Tax Assessor fail to give notice by mail, the taxpayer is not barred of the right to make application for abatement; however, upon demand the taxpayer shall answer in writing all proper inquiries as to the nature, situation and value of the taxpayer's property liable to be taxed in the State. A taxpayer's refusal or neglect to answer the inquiries and subscribe the same bars an appeal, but the list and answers are not conclusive upon the assessor or assessors, chief assessor or the State Tax Assessor.

§707. Exempt property; inventory required

Assessors shall include in their inventory, but not in the tax list, every 5 years beginning in 1963:

Exhibit 4

S. Seckins
received - 7-15-09



MAINE POWER RELIABILITY PROGRAM

A CENTRAL MAINE POWER COMPANY PROGRAM

TOWN OF DETROIT, MAINE SHORELAND ZONING AND FLOODPLAIN MANAGEMENT APPLICATION

received
-7-15-09
7-21-09
complete

Sections 3023, 203, and 66/67 Transmission Line Construction

Prepared for:

Central Maine Power Company
83 Edison Drive
Augusta, Maine 04336

Prepared by:



TRC Engineers, LLC
249 Western Avenue
Augusta, Maine 04330

July 2009

Permit* 07-Shoreland-~~original~~
2010
~~original~~
original

TOWN OF DETROIT
SHORELAND ZONING PERMIT APPLICATION

FEE - \$100.00

GENERAL INFORMATION

1. Applicant Central Maine Power Company	2. Applicant's Address 83 Edison Drive Augusta, Maine 04336	3. Applicant's Tel. # (207) 623-5321
4. Property Owner Central Maine Power Company	5. Owner's Address 83 Edison Drive Augusta, Maine 04336	6. Owner's Tel. # (207) 623-3521
7. Contractor	8. Contractor's Address	9. Contractor's Tel. #
10. Location/Address of Property Existing transmission line corridor from Pittsfield to Plymouth town line (Section 66/67, and 203 corridor)	11. Tax Map/Page & Lot # 7-32, 7-34, 5-31, 5-29, 4-29, 4-30, 4-73 (See also Deed Reference Table attached as Exhibit 4)	12. Zoning District Limited Residential (2) Resource Protection (2)
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS (PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED). The Maine Power Reliability Program (MPRP) is a Central Maine Power Company ("CMP") program to upgrade Maine's bulk power system. The vast majority of Maine's bulk power transmission system was placed into service in the early 1970s and is now reaching the limits of its ability to meet the growing electrical demand of Maine customers. Since the last major transmission infrastructure was completed more than 30 years ago, the patterns of both available generation and customer load have shifted significantly. For example, population has become more concentrated in the southern part of the state, while the generation needed to serve that load is now more distant and dispersed. When these changes are combined with increasing peak demand, the current transmission infrastructure in Maine will, in very few years, become inadequate and unsafe. In addition, the reliability and security standards mandated by law and administered by the North American Electric Reliability Corporation (NERC), the Northeast Power Coordinating Council, Inc. (NPCC), and ISO New England (ISO-NE) have changed significantly in recent years. CMP must upgrade its bulk power system with this proposed project to meet the mandatory standards and to provide reliable electric service to Maine customers into the future. In all, MPRP will encompass nearly 80 Maine towns, and will require approvals from the Maine Public Utilities Commission, the Maine Department of Environmental Protection, and numerous municipalities.		

Project Description in the Town of Detroit

The part of the program located in the Town of Detroit involves work in an existing 218 foot wide transmission line corridor (Section 203) that traverses the central portion of the town. In this corridor, which extends for approximately 6.9 miles from Pittsfield to the Plymouth town line, the project involves the installation of a new 345 kV transmission line along the northeast side of the corridor (Section 3023 attached as Exhibit 2). The new line will be primarily constructed on approximately 63 two-pole wooden H-frame structures typically 75 feet above ground, and one steel single pole structure installed on the west side of the substation that will be approximately 135 feet above ground.

The project also involves the rebuilding of the existing 115 kV line (Section 203) from the Detroit substation to the Plymouth town line. The rebuilt line will be relocated to the southwest side of the corridor and will be primarily constructed using approximately 79 single pole wooden structures that are typically 75 feet above ground and one single pole steel structure installed on the east side of the substation that will be approximately 70 feet above ground. Additional tree clearing along portions of the southwest side of the existing corridor will be necessary to meet mandatory clearance and safety standards (see maps attached as Exhibit 1). The existing 115 kV lines from the Detroit substation to the Pittsfield town line (Sections 66 and 67 - 0.1 miles) will be rebuilt using two single pole wooden structures and two single pole steel structures that will be approximately 65 to 75 feet above ground.

Please note that structure heights vary due to varying terrain and the need to achieve spans which will avoid or minimize impacts to natural resources. Typical above ground structure heights are described above, although some structures may exceed those heights in specific instances (see the attached table in Exhibit 3 for a description of the number of structures within specific height ranges for the new and rebuilt transmission line sections).

The proposed upgrades in the Town of Detroit, as outlined above, are a part of the program to improve the reliability, safety, and security of the bulk power transmission system in Maine, while at the same time meeting the increasing demands for electrical power.

<p>14. Proposed Use of Project</p> <p>See Description above</p>	<p>15. Estimated Cost Of Construction</p> <p>Approximately \$28.8 million for the MPRP project in the Town of Detroit</p>
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**CENTRAL MAINE
POWER**

April 27, 2015

RE: 2015 Property Tax Declaration

To: Municipal Assessing Officer(s)

2014 Values { Dist Acct # 65 \$688,800
Transmission # 64 \$12,142,900
Substation 66 & 56 \$5,724,900

Enclosed is the Central Maine Power Company's (CMP) Property Tax Declaration (Declaration) for the 2015 property tax year. The Declaration is for real and personal property owned or otherwise reported for local ad valorem property tax purposes by CMP and located in your jurisdiction.

The Declaration is designed to both facilitate the method in which CMP reports its' real and personal property, and to create a concise and usable format. It is also intended to constitute the same information as would be provided on a true and perfect list as required under 36 M.R.S.A., Section 706, irrespective of whether such a request has been made for the current tax year.

Since CMP voluntarily files the Declaration on an annual basis, we request that any assessment placed on CMP property be properly equalized with all other classes of property within the jurisdiction.

We also request and hereby authorize the assessor(s) to value CMP's land, wherever and whenever possible, as one contiguous parcel without regard to roads, railroads or other public rights of ways in accordance with 36 M.R.S.A., §701(A). To the extent possible, CMP requests that the transmission and distribution, substation, and personal property assessment accounts, if any, be separately assessed from any other real property that the Company may own in this jurisdiction.

As a reminder, the responsibility for CMP's property tax management has been transferred to Iberdrola USA Management Corporation (IUMC) parent company of CMP. CMP remains the owner of record for assessment purposes. All property tax assessment correspondence and property tax bills should be mailed to:

Central Maine Power Company
IUMC - Local Taxes
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If you have any questions regarding valuation or related property tax management issues, please contact Stephen Holt at 207-688-6068, stephen.holt@iberdrolausa.com. If you have questions involving information contained in the Declaration or tax bills, please contact Shari Irish at 207-688-6067, shari.irish@iberdrolausa.com. We would be pleased to discuss any matters with you prior to your commitment date. Thank you for your attention and cooperation.

Respectfully submitted,



Gerard R. Morin, Jr.
Manager - Local Tax & Audit Management
207-688-6130

Enclosure: 2015 Tax Year Declaration



Iberdrola USA Management Corporation 70 Farm View Drive New Gloucester, ME 04260

Detroit
2015 TAX YEAR TRANSMISSION AND DISTRIBUTION PROPERTY

ITEM II - TRANSMISSION LINES

Section Number	Voltage (KV)	Structure Description	Miles of Line	Unit Values	Valuation
2030	115 KV	Wood, H-Frame	6.86	\$ 228,519	\$ 1,567,640.34
3023	345 KV	Wood Poles	6.87	\$ 422,113	\$ 2,899,916.31
40	34.5KV	Wood, Single Pole	0.40	\$ 185,802	\$ 74,320.80
50	34.5KV	Steel Pole/Tower	0.52	\$ 185,802	\$ 96,617.04
670	115 KV	Wood, Single Pole	0.13	\$ 228,519	\$ 29,707.47
82	115KV	Wood, Single Pole	0.23	\$ 228,519	\$ 52,559.37
850	115 KV	Wood, Single Pole	0.48	\$ 228,519	\$ 109,689.12
				Subtotal	\$ 4,830,450.45

Note: Steel structure investments, if any, are included in the Unit Value and Valuation.

ITEM III - DISTRIBUTION SYSTEM (Aerial)

Property Class	Quantity	Unit Values	Valuation	
A. Poles				
Wholly Owned	586	\$ 422	\$ 247,292.00	
Jointly Owned	0	\$ 327	\$ 0.00	
B. Conductors				
Primary/Secondary Conductor	25.20	\$ 9,091	\$ 229,093.20	
Street Light Conductor	0.00	\$ 3,268	\$ 0.00	
C. Street Lights				
Fixtures	15	\$ 258	\$ 3,870.00	
D. Yard Lights				
Fixtures	6	\$ 105	\$ 630.00	
E. Service Meters & Related Equipment				
Meters	495	\$ 451	\$ 223,245.00	
			Subtotal	\$ 704,130.20
			Total Transmission and Distribution*:	\$ 5,534,580.65

* Total is at 100% prior to adjustment by certified ratio.

The unit value for service meters and related equipment includes ALL investment for meters, service drops, miscellaneous hardware, distribution transformers and regulators located in this jurisdiction. The valuation for distribution property includes conductors, insulators, guys, line transformers and other appurtenant equipment investment owned by this company but attached to poles owned by another utility declared herein.

DETROIT
2015 TAX YEAR SUBSTATION DECLARED VALUE

The below represents all investments associated with substation operating properties including bus work, control buildings and related improvements such as well and septic, equipment, transformers, fencing, etc. It does not include land.

<u>Facility Name</u>	<u>Type</u>	<u>Original Cost</u>	<u>Valuation</u>
DETROIT S/S	Distribution	\$290,578	\$215,135
DETROIT S/S	Transmission	\$6,433,138	\$5,390,822
	Total		\$5,605,957

Title 36: TAXATION
Part 2: PROPERTY TAXES
Chapter 105: CITIES AND TOWNS
Subchapter 5: POWERS AND DUTIES OF ASSESSORS

§701-A. Just value defined

In the assessment of property, assessors in determining just value are to define this term in a manner that recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put. In determining just value, assessors must consider all relevant factors, including without limitation the effect upon value of any enforceable restrictions to which the use of the land may be subjected including the effect on value of designation of land as significant wildlife habitat under Title 38, section 480-BB, current use, physical depreciation, sales in the secondary market, functional obsolescence and economic obsolescence. Restrictions include but are not limited to zoning restrictions limiting the use of land, subdivision restrictions and any recorded contractual provisions limiting the use of lands. The just value of land is determined to arise from and is attributable to legally permissible use or uses only. [2007, c. 389, §1 (AMD).]

For the purpose of establishing the valuation of unimproved acreage in excess of an improved house lot, contiguous parcels and parcels divided by road, powerline or right-of-way may be valued as one parcel when: each parcel is 5 or more acres; the owner gives written consent to the assessor to value the parcels as one parcel; and the owner certifies that the parcels are not held for sale and are not subdivision lots. [1993, c. 317, §1 (NEW); 1993, c. 317, §2 (AFF).]

SECTION HISTORY

1969, c. 246, (NEW). 1985, c. 764, §13 (AMD). 1993, c. 317, §1 (AMD). 1993, c. 317, §2 (AFF). 1999, c. 478, §2 (AMD). 2007, c. 389, §1 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.

If you need legal advice, please consult a qualified attorney.

[Office of the Revisor of Statutes \(mailto:webmaster_ros@legislature.maine.gov\)](mailto:webmaster_ros@legislature.maine.gov) : 7 State House Station · State House Room 108 · Augusta, Maine 04333-0007

Data for this page extracted on 12/11/2018 05:24:37.

Report: Downed power lines sparked deadly California fires

9 June 2018, by Juliet Williams And Don Thompson

In eight of the 12 fires included in Friday's report, Cal Fire said there was evidence of violations of state law and that its findings have been forwarded to county prosecutors.



In this Oct. 9, 2017 file photo, flames from a wildfire consume a home, near Napa, Calif. Downed power lines caused a dozen Northern California wildfires last fall, including two that killed a total of 15 people, California's Department of Forestry and Fire Protection said Friday, June 8, 2018. The wildfires were part of a series that were the deadliest in California history. (AP Photo/Rich Pedroncelli, file)

Power lines owned by San Francisco-based Pacific Gas & Electric Co. are to blame for a dozen wildfires in Northern California's wine country last fall, including two that killed 15 people combined, the state's Department of Forestry and Fire Protection said Friday.

Investigators determined the fires—part of a series that were the deadliest in California history—were caused by PG&E-owned equipment.

All of the blazes that raged through California last October killed 44 people, destroyed 8,800 structures and forced more than 100,000 people to evacuate. About 11,000 firefighters from 17 [states](#) and Australia helped battle the blazes.

Hundreds of homeowners and relatives of those killed have sued PG&E.

"PG&E has been trying to duck responsibility for the fires, blaming everything from climate change to local fire departments and the state's liability laws," Patrick McCallum, co-chair of a coalition of people affected by the wildfires, said in a statement.

He said Cal Fire's report "puts the blame where it belongs—squarely on PG&E, confirming it was responsible for many of the fires that devastated so many lives."

"As victims, we see the report as an important step toward rebuilding and recovery," McCallum said.



In this Oct. 13, 2017 file photo, a firefighter carries a water hose to put out a fire burning along the Highway 29 near Calistoga, Calif. Downed power lines caused a dozen Northern California wildfires last fall, including two that killed a total of 15 people, California's Department of Forestry and Fire Protection said Friday, June 8, 2018. The wildfires were part of a series that were the deadliest in California history. (AP Photo/Jae C. Hong, File)

PG&E said in a statement that the company believes its "overall programs met our state's high standards" for maintaining electrical equipment and pruning about 1.4 million trees a year.

But because of California's much longer wildfire season and [extreme weather](#), PG&E said it has made changes including creating a wildfire operations center to monitor extreme weather and fire threats in real time, putting in place a network of weather stations throughout high-risk fire areas and boosting vegetation management.

In March, the company announced it would start switching off power to minimize sparks in vulnerable areas during times of extreme fire danger. PG&E and some other state utilities previously have resisted such a measure, arguing that cutting off power carries its own risks, including to patients dependent on electrical equipment.

In one fire in Mendocino County last fall, investigators said Potter Valley experienced wind speeds up to 67 mph, causing many tree branches to fall, triggering numerous 911 calls reporting fires, according to Cal Fire's report.

"An arc from a conductor was witnessed along with the start of a vegetation fire," the report said. A second fire also was "from an overhead conductor." The two sparked a third, merged, and burned 10 miles (16 kilometers), the report said.

A responding firefighter said the smoke was blowing sideways and he had to veer around numerous tree branches in the road to get to the fire area.

One homeowner told the firefighter "he saw a tree illuminate when the conductors arced."

Another property owner told Fire Captain Specialist Eric Bettger that "he saw a flash to the east and saw the conductors come down.



In this Oct. 14, 2017 file photo, PG&E crews work on restoring power lines in a fire ravaged neighborhood in an aerial view in the aftermath of a wildfire in Santa Rosa, Calif. Downed power lines caused a dozen Northern California wildfires last fall, including two that killed a total of 15 people, California's Department of Forestry and Fire Protection said Friday, June 8, 2018. The wildfires were part of a series that were the deadliest in California history. (AP Photo/Marcio Jose Sanchez, File)

"He said the fire crossed the road within seconds," Bettger said.

CalFire did not post details of its investigation into Napa County [fire](#).

Sen. Bill Dodd, a Democrat who represents the Napa area, called the report's findings "disappointing and deeply concerning."

"I'm calling on PG&E, utilities across the state and the Public Utilities Commission to step up and ensure they are meeting their legal obligations to maintain [power lines](#) in a safe manner," Dodd said in a statement. "It's inexcusable and it can't be allowed to happen again."

Dodd has introduced legislation that would require electric utilities to update wildfire plans to determine when they need to cut power to lines during harsh weather and boost infrastructure.

Nearly \$1.5 billion was spent fighting fires and on recovery north of San Francisco in October, including debris removal and infrastructure repair

and the destruction prompted \$10 billion in insurance claims.

CalFire investigators are still probing other fires in October and December, including the deadliest blaze in Napa and Sonoma Counties, which PG&E has argued was started by wires belonging to a private homeowner.

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APA citation: Report: Downed power lines sparked deadly California fires (2018, June 9) retrieved 17 February 2019 from <https://phys.org/news/2018-06-downed-power-lines-deadly-california.html>

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[Francis Small Heritage Trust v. Town of Limington](#)

Supreme Judicial Court of Maine

May 15, 2014, Argued; August 7, 2014, Decided

Docket: Yor-13-511

Reporter

2014 ME 102 *; 98 A.3d 1012 **; 2014 Me. LEXIS 110 ***; 2014 WL 3867782

distinct in their scope and purpose.

FRANCIS SMALL HERITAGE TRUST, INC. v. TOWN OF LIMINGTON et al.

Outcome

The judgment was affirmed.

Prior History: [Francis Small Heritage Trust v. Town of Limington & Assessors of Limington, 2013 Me. Super. LEXIS 82 \(Me. Super. Ct., May 30, 2013\)](#)

LexisNexis® Headnotes

Disposition: Judgment of the Superior Court vacating the decision of the State Board of Property Tax Review affirmed.

Administrative Law > Judicial Review > Standards of Review > General Overview

Core Terms

exemption, charitable, open space, Farm, open space land, conservation, purposes, properties, preservation, benevolent, valuation, charitable purpose, organization's, recreational, quotation, parcels, marks, commercial activity, Incorporation, forestry, wildlife, natural resources, public access, tax exemption, activities, taxation, charitable institution, compatible, reduction, scenic

[HN1](#) [↓] **Judicial Review, Standards of Review**

In appeals from agency action, where the superior court acted in its appellate capacity, the Maine Supreme Court reviews the decision of the agency directly without deference to the superior court's intermediate review.

Business & Corporate Law > Nonprofit Corporations & Organizations > General Overview

Case Summary

Tax Law > State & Local Taxes > Real Property Taxes > Exemptions

Overview

HOLDINGS: [1]-The trial court properly vacated the Board of Property Tax Review's ruling that a trust was not entitled to a tax exemption as a benevolent and charitable institution under [Me. Rev. Stat. Ann. tit. 36, § 652\(1\)\(A\), \(C\)](#). The trust was organized and conducted for charitable purposes within the meaning of [§ 652\(1\)\(C\)\(1\)](#), it operated its properties like a state park, thereby assisting the state in achieving its conservation goals, and there was no evidence to support the Board's finding that the trust owned a commercial farm; [2]-In the context of conservation easements, Maine's Farm and Open Space Tax Law, [Me. Rev. Stat. Ann. tit. 36, §§ 1101-1121](#) (2013), did not preempt the charitable exemption codified in [§ 652](#), as the two laws were

Tax Law > State & Local Taxes > Real Property Taxes > General Overview

Tax Law > State & Local Taxes > Administration & Procedure > Judicial Review

[HN2](#) [↓] **Business & Corporate Law, Nonprofit Corporations & Organizations**

As a general rule, all real estate in Maine is subject to taxation. [Me. Rev. Stat. Ann. tit. 36, § 502](#) (2013). Legislatively established state policy encouraging charitable use of land, however, establishes that an organization's property is exempt from taxation if (1) the organization claiming the exemption is organized and

conducted exclusively for benevolent and charitable purposes, and (2) the property is owned and occupied or used solely for the organization's own purposes. *Me. Rev. Stat. Ann. tit. 36, § 652(1)(A), (C)(1)*. Whether a purpose is benevolent and charitable within the meaning of *§ 652(1)* is a question of law that an appellate court reviews de novo.

Evidence > Burdens of Proof > Allocation

Tax Law > State & Local Taxes > Real Property Taxes > Exemptions

[HN3](#) **Burdens of Proof, Allocation**

Because taxation is the rule and exemption the exception, the burden is on the party seeking a tax exemption to prove that it falls unmistakably within the spirit and intent of the act creating the exemption.

Business & Corporate Law > Nonprofit Corporations & Organizations > General Overview

Tax Law > State & Local Taxes > Real Property Taxes > Exemptions

[HN4](#) **Business & Corporate Law, Nonprofit Corporations & Organizations**

In cases where the charitable exemption is claimed, there must be a careful examination to determine whether in fact the institution is organized and conducting its operation for purely benevolent and charitable purposes in good faith, whether there is any profit motive revealed or concealed, whether there is any pretense to avoid taxation, and whether any production of revenue is purely incidental to a dominant purpose which is benevolent and charitable. When these questions are answered favorably to the petitioner for exemption, the property may not be taxed. The Maine Supreme Court has construed the word "benevolent" as synonymous with the word "charitable." An activity or purpose is "charitable" if it is for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering, or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government.

Business & Corporate Law > Nonprofit Corporations & Organizations > General Overview

Tax Law > State & Local Taxes > Real Property Taxes > Exemptions

[HN5](#) **Business & Corporate Law, Nonprofit Corporations & Organizations**

Part of the rationale for granting exemption for charitable institutions is that any institution which by its charitable activities relieves the government of part of its burden is conferring a pecuniary benefit upon the body politic, and in receiving exemption from taxation it is merely being given a quid pro quo for its services in providing something which otherwise the government would have to provide. This "quid pro quo" factor, although not controlling, is one courts should consider in determining whether the charitable exemption applies. Providing opportunities for even casual and limited group recreational and relaxation activities can constitute a quid pro quo because it provides something that government would otherwise provide, through the government system of parks, public lands, and recreational facilities.

Business & Corporate Compliance > ... > Business & Corporate Law > Nonprofit Corporations & Organizations > Formation

Tax Law > State & Local Taxes > Real Property Taxes > Exemptions

Business & Corporate Law > Nonprofit Corporations & Organizations > General Overview

[HN6](#) **Nonprofit Corporations & Organizations, Formation**

An organization's incidental, nonexempt use of property will not render the property ineligible for exemption from property tax. A logical corollary to that holding is that an organization's incorporating documents may authorize the organization to engage in such incidental use without destroying the exemption.

Business & Corporate Law > Nonprofit Corporations & Organizations > General Overview

Tax Law > State & Local Taxes > Real Property Taxes > Exemptions

Real Property Law > ... > Limited Use Rights > Easements > Conservation Easements

[HN7](#) Business & Corporate Law, Nonprofit Corporations & Organizations

The charitable exemption codified in [Me. Rev. Stat. Ann. tit. 36, § 652\(1\)](#) is well established in Maine law, tracing its origins back to the 1800s. Nothing in the language or legislative history of Maine's Farm and Open Space Tax Law, [Me. Rev. Stat. Ann. tit. 36, §§ 1101-1121](#) (2013), indicates any intent to preempt or otherwise displace this longstanding exemption in the context of land conservation. Although the Open Space Tax Law provides that the assessor shall determine whether the land is open space land, and that, if so, that land must be classified as open space land and subject to taxation under Me. Rev. Stat. Ann. tit. 36, pt. 2, ch. 105, subch. 10, [Me. Rev. Stat. Ann. tit. 36, § 1109\(3\)](#), that provision only comes into effect upon the landowner's election to apply for taxation pursuant to [Me. Rev. Stat. Ann. tit. 36, § 1103](#). The legislature specifically made the application of the Open Space Tax Law voluntary on the part of the taxpayer. That the Open Space Tax Law's valuation methodology recognizes and adjusts for the restricted nature of open space land, [Me. Rev. Stat. Ann. tit. 36, § 1106-A](#), does not demonstrate legislative intent to tax such land when it is owned and used by a charitable institution.

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David A. Lourie, Esq., Portland, for appellee The ***Francis Small Heritage*** Trust, Inc.

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At oral argument: Leah B. Rachin, Esq., for appellant Town of Limington.

David A. Lourie, Esq., for appellee The ***Francis Small Heritage*** Trust, Inc.

Karin Marchetti-Ponte, Esq., for amici curiae Maine Coast ***Heritage*** Trust and Land Trust Alliance, Inc.

Judges: Panel: SAUFLEY, C.J., and ALEXANDER, SILVER, MEAD, GORMAN, and JABAR, JJ.

Opinion by: SILVER

Opinion

[**1013] SILVER, J.

[*P1] The Town of Limington appeals from a judgment entered in the Superior Court (York County, *Fritzsche, J.*) vacating a decision of the State Board of Property Tax Review. The Town argues that (1) the Superior Court erred in vacating the Board's ruling that ***Francis Small Heritage*** Trust, Inc., is not entitled to a tax exemption as a benevolent and charitable institution pursuant to [36 M.R.S. § 652\(1\)\(A\)](#), [\(C\)](#) (2013), and (2) the Board did not err in concluding that the Town correctly applied the "[a]lternative valuation method" of [***2] [36 M.R.S. § 1106-A\(2\)](#) (2013) to the Trust's properties that are classified as open space land pursuant to Maine's Farm and Open Space Tax Law, [**1014] [36 M.R.S. §§ 1101-1121](#) (2013).¹ This opinion gives us the opportunity to review the real estate tax status of land fully devoted to conservation and free public access. Because we conclude that the Trust is entitled to a charitable exemption, we affirm the judgment.

I. BACKGROUND

[*P2] The following facts are drawn from the administrative record developed before the Board. The Trust owns eleven contiguous parcels of land on and near Sawyer Mountain in Limington. Three of the parcels have historically been taxed pursuant to the Maine Tree Growth Tax Law, [36 M.R.S. §§ 571 to 584-A](#) (2013).² The remaining eight parcels are classified as open space land pursuant to the Farm and Open Space Tax Law, [36 M.R.S. §§ 1101-1121](#). The open space

¹ Various provisions of the Farm and Open Space Tax Law, including [36 M.R.S. § 1106-A](#) (2013), have been amended since the 2009 and 2010 tax years at issue in this case. See, e.g., P.L. 2011, ch. 240, §§ 7-8 (effective Sept. 28, 2011) (codified as amended at [36 M.R.S. § 1109\(1\)](#), [\(3\)](#) (2013)); P.L. 2011, ch. 618, §§ 6-7 (effective Aug. 30, 2012) (codified at [36 M.R.S. § 1106-A\(2\)-\(3\)](#)). Those amendments do not affect this appeal.

² Various provisions of the Maine Tree Growth Tax Law have been amended since the 2009 and 2010 tax years at issue in this case. See, e.g., P.L. 2013, ch. 405, § A-23 (effective Oct. 9, 2013) (codified at [36 M.R.S. §§ 575-A](#), [577](#), [579](#), [581-F to 581-G](#) (2013)). Those amendments do not affect this appeal.

properties are protected by third-party, "forever-wild" conservation [***3] easements, and some of the parcels are also further protected by easements held by the Department of Inland Fisheries and Wildlife as part of the Land for Maine's Future program.

[*P3] The Trust's purposes are "to conserve natural resources and to provide free public access to those natural resources." To that end, the Trust's properties are "used and operated as conserved wildlife habitat," and are open to the public 365 days a year. Local schools use the properties for field trips and environmental education. The Trust's land is also open for hunting, fishing, hiking, cross-country skiing, and snowmobiling. In addition, the Trust has engaged in other activities, such as sponsoring a Limington Boy Scout Troop, participating in a project with Maine Medical Center to research the risk of exposure to Lyme-disease-transmitting deer ticks, and conducting a workshop on invasive plants. The Trust also holds a conservation easement on a commercial [***4] farm in the town of Parsonsfield. The Trust's Articles of Incorporation set forth the purposes of the Trust:

The corporation is organized exclusively for charitable, educational, and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code and Title 13-B of the Maine Revised Statutes. The nature of the activities to be conducted and the purposes to be promoted or carried out by the corporation are as follows:

(a) *The receipt and administration of property and funds for the promotion of conservation and preservation of the natural resources primarily in, but not limited to, the Towns of Cornish, Limerick and Limington, County of York, state of Maine for the benefit of the general public, including land and water resources, plant and animal life, and areas of scenic, agricultural, ecological or educational significance therein;*

(b) *In conformity with the purposes set forth in this paragraph, the corporation shall accept by gift, devise or bequest, but may also obtain by purchase, lease, or otherwise, property and interests [**1015] therein, including, but not limited to, developmental rights therein, and other property, real, personal or mixed, of historic, scenic, agricultural and natural significance. Other specific purposes of the corporation shall be to maintain [***5] open space and preserves for wildlife and plant life, protect appropriate uses such*

*as logging, farming and other compatible commercial activities within specified areas and adjacent areas, engage in and promote scientific study and education regarding natural resources, to demonstrate and teach the necessity of preserving our natural **heritage** by conservation and preservation so that future generations may enjoy it, and to protect and promote the utilization of properties for hunting, fishing, hiking, cross country skiing and other compatible uses.*

(Emphasis added.)

[*P4] For tax purposes, the assessed value of open space land is governed by [36 M.R.S. § 1106-A](#), which provides that, if the assessor cannot determine the market price of the property, the assessor may employ an "[a]lternative valuation method." *Id.* [§ 1106-A\(1\)](#), [\(2\)](#). Pursuant to the alternative valuation method, "[t]he assessor may reduce the ordinary assessed valuation of the land, without regard to conservation easement restrictions," by up to 95% if the land meets certain statutory criteria.³ *Id.* [§ 1106-A\(2\)](#). [Section 1106-A\(2\)](#) further provides, however, that "[n]otwithstanding this section, the value of forested open space land may not be reduced to less than the value it would have under

³The statute provides in relevant part:

The assessor may reduce the ordinary assessed valuation of the land, without regard to conservation easement restrictions and as reduced by the certified ratio, by the cumulative percentage reduction for which the land is eligible according to the following categories.

- A. All open space land is eligible for a reduction of 20%.
- B. Permanently protected open space land is eligible for the reduction set in paragraph A and an additional 30%.
- C. Forever wild open space land is eligible for the reduction set in paragraphs A and B and an additional 20%.
- D. Public access open space land is eligible for the applicable reduction set in paragraph A, B or C and an additional 25%.

[36 M.R.S. § 1106-A\(2\)\(A\)-\(D\)](#) (2013). [Subsection \(3\)](#) of the statute defines "[p]ermanently protected open space," "[f]orever wild open space," and "[p]ublic access open space." [36 M.R.S. § 1106-A\(3\)\(A\)-\(C\)](#). The Town does not dispute that the Trust's open space properties meet all of these criteria and are eligible for a 95% reduction in assessed value.

[the Maine Tree Growth Tax Law], [***6] and the open space land valuation may not exceed just value as required under [[36 M.R.S. § 701-A](#) (2013)]."

[*P5] In assessing the Trust's open space properties, the Town utilized the alternative valuation method. Because the Town's valuation of the properties, [***7] as reduced pursuant to [section 1106-A\(2\)\(A\)-\(D\)](#), fell below the value of the properties pursuant to the Maine Tree Growth Tax Law, the Town instead used the tree growth value. The Town did not have data regarding the mixture of trees for one of the Trust's open space parcels because it had never been enrolled in the tree growth program, so the Town instead used the full value of that parcel as reduced pursuant to [section 1106-A\(2\)\(A\)-\(D\)](#).

[*P6] The Trust requested tax abatement on its eleven properties for the 2009 and 2010 tax years, contending that the properties should be granted tax-exempt status, and that, if the properties are not exempt, the Town overvalued the eight [**1016] open space lots by misapplying the alternative valuation method set forth in [36 M.R.S. § 1106-A\(2\)](#). The Town denied the Trust's petitions, and the Trust appealed to the Board.

[*P7] The Board consolidated the Trust's appeals and held evidentiary hearings on July 19 and 20, 2011, and September 9, 2011. The Board received the testimony of several witnesses, including Richard Jarrett, the treasurer of the Trust and a member of its board of directors. Jarrett testified that the "compatible commercial activities" provision of the Trust's Articles of Incorporation permitted the Trust to engage in forestry. The Trust, Jarrett testified, [***8] plans to use its tree growth parcels for an educational program on sustainable tree harvesting, with any revenue flowing back into the Trust to be used in accordance with its purposes. Jarrett also testified that heavily encumbered conservation land is more of a financial liability than an asset, and that transfers of such property are generally for nominal value and often accompanied by a donation of "stewardship" funds for the maintenance of the property.

[*P8] By a written decision dated August 22, 2012, the Board denied the Trust's appeals. The Board concluded that the Trust was not entitled to a tax exemption because "its activities are not restricted solely to benevolent and charitable purposes." In reaching this conclusion, the Board relied on several facts: (1) the Trust's Articles of Incorporation permitted the Trust to "engage" in commercial activities such as farming and

logging; (2) Jarrett, the Trust's treasurer, interpreted the commercial activities provision of the Articles to permit the Trust to engage in forestry; (3) three of the Trust's parcels were enrolled in the tree growth program; and (4) the Trust "own[s]" a commercial farm in Parsonsfield. The Board also reasoned that the Trust's property could not be [***9] exempt because eight of the Trust's properties were classified as open space land and already enjoyed substantial tax relief, relying in part on [Cushing Nature & Preservation Center v. Inhabitants of the Town of Cushing, No. Civ.A.CV99-059, 2001 Me. Super. LEXIS 50, 2001 WL 1729095, at *6 \(Me. Super. Ct. May 30, 2001\)](#), *vacated on other grounds, 2001 ME 149, 785 A.2d 342*.

[*P9] With respect to the valuation issue, the Board concluded that the plain language of [section 1106-A\(2\)](#) supported the Town's use of the tree growth value where the 95% reduction resulted in a value less than the tree growth value. The Board also rejected the Trust's argument that the fair market value of the properties was nominal due to restrictions on their use because the Board found Jarrett's "unsupported testimony not persuasive and therefore insufficient to overcome the presumption that the assessors' valuation is valid."

[*P10] The Trust appealed the Board's decision to the Superior Court pursuant to M.R. Civ. P. 80C and [5 M.R.S. §§ 11001-11008](#) (2013). The Superior Court vacated the Board's decision, concluding that the Trust was entitled to a tax exemption as a benevolent and charitable institution. The court reasoned that the Trust's Articles of Incorporation permitted only the "protection" of logging, farming, and other compatible commercial activities, and did not actually authorize the Trust to engage [***10] in them, and that any revenue derived by the Trust from such commercial activities was purely incidental. The court further reasoned that nothing in the Maine Tree Growth Tax Law or the Farm and Open Space Tax Law precluded exemption of the Trust's property as that of a benevolent and charitable institution. The court did not reach the issue of the Town's valuation [**1017] of the Trust's open space properties. The Town timely appealed.⁴

II. DISCUSSION

A. Standard of Review

⁴ Amici Maine Coast [Heritage](#) Trust and Land Trust Alliance, Inc., filed a brief in support of the Trust.

[*P11] Because [HN1](#) the Superior Court acted in its appellate capacity, we review the decision of the Board directly without deference to the Superior Court's intermediate review. See [Humboldt Field Research Inst. v. Town of Steuben, 2011 ME 130, PP 3-4, 36 A.3d 873; Mar. Energy v. Fund Ins. Review Bd., 2001 ME 45, P 7, 767 A.2d 812](#). We review the Board's decision for abuse of discretion, errors of law, or findings not supported by the evidence. [Mar. Energy, 2001 ME 45, P 7, 767 A.2d 812](#).

B. Analysis

[*P12] [HN2](#) As a general rule, all real estate in Maine is subject to taxation. [36 M.R.S. § 502](#) (2013); [Hebron Acad., Inc. v. Town of Hebron, 2013 ME 15, P 7, 60 A.3d 774](#). Legislatively established state policy encouraging charitable use of land, however, establishes that an organization's property is exempt from taxation if (1) the organization claiming the exemption is "organized and conducted exclusively for benevolent [***11] and charitable purposes," and (2) the property is "owned and occupied or used solely for [the organization's] own purposes." [36 M.R.S. § 652\(1\)\(A\), \(C\)\(1\)](#). Because the Town does not argue that the Trust does not own, occupy, and use the property in question solely for its own purposes, we address only whether the Trust is "organized and conducted exclusively for benevolent and charitable purposes." *Id.*

[*P13] Whether a purpose is benevolent and charitable within the meaning of [section 652\(1\)](#) is a question of law that we review de novo. [Cushing Nature & Pres. Ctr. v. Town of Cushing, 2001 ME 149, P 10, 785 A.2d 342](#). [HN3](#) Because "[t]axation is the rule and exemption the exception," [Green Acre Baha'i Inst. v. Town of Eliot, 150 Me. 350, 353, 110 A.2d 581 \(Me. 1954\)](#), the burden is on the party seeking the exemption to prove that it falls "unmistakably within the spirit and intent of the act creating the exemption," [Hebron Acad., 2013 ME 15, P 7, 60 A.3d 774](#) (quotation marks omitted). [HN4](#) In cases where the charitable exemption is claimed,

there must be a careful examination to determine whether in fact the institution is organized and conducting its operation for purely benevolent and charitable purposes in good faith, whether there is any profit motive revealed or concealed, whether there is any pretense to avoid taxation, and whether any production of revenue is purely incidental to a dominant purpose which is benevolent and charitable. When these questions [***12] are

answered favorably to the petitioner for exemption, the property may not be taxed.

[Christian Fellowship & Renewal Ctr. v. Town of Limington, 2006 ME 44, P 17, 896 A.2d 287](#) (quoting [Green Acre, 150 Me. at 354, 110 A.2d 581](#)).

[*P14] We have construed the word "benevolent" as synonymous with the word "charitable." *Id.* P 13. An activity or purpose is "charitable" if it is

for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering, or constraint, [***1018] by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government.

Id. P 14 (quoting [Episcopal Camp Found., Inc. v. Town of Hope, 666 A.2d 108, 110 \(Me. 1995\)](#)). [HN5](#) Part of the rationale for granting exemption for charitable institutions is that

[a]ny institution which by its charitable activities relieves the government of part of [its] burden is conferring a pecuniary benefit upon the body politic, and in receiving exemption from taxation it is merely being given a "quid pro quo" for its services in providing something which otherwise the government would have to provide.

[Episcopal Camp, 666 A.2d at 110](#) (alterations in original) (quotation marks omitted). This "quid pro quo" factor, although not controlling, is one courts should consider in determining whether the charitable exemption applies. [***13] [Christian Fellowship, 2006 ME 44, PP 24, 35, 896 A.2d 287](#). Providing opportunities for even "casual and limited group recreational and relaxation activities" can constitute a quid pro quo because it "provid[es] something that government would otherwise provide, through the government system of parks, public lands, and recreational facilities." *Id.* P 37 (quotation marks omitted).

[*P15] We have not directly addressed whether land conservation constitutes a charitable purpose within the meaning of [section 652\(1\)](#). See [Cushing, 2001 ME 149, P 15, 785 A.2d 342](#) (declining to reach the issue of "whether land conservation or preservation, standing alone, could constitute a charitable use"). We have, however, considered whether wildlife refuges qualify for

exemption. In [Holbrook Island Sanctuary v. Inhabitants of the Town of Brooksville](#), 161 Me. 476, 477, 484, 214 A.2d 660 (Me. 1965), the plaintiff organization sought exemption of property it operated as a wildlife sanctuary or game preserve. Public access to the plaintiff's property was strictly limited:

The corporation employed a full-time Warden . . . with an additional helper during the summer months and the hunting season. All persons wishing to enter the sanctuary were and are asked to register at the office and to apply to the Warden for permission to enter the sanctuary. Persons and organizations engaged in nature study were permitted in the Sanctuary accompanied by the Warden for [***14] the purpose of nature study, observation and photography. The public was directed not to enter the sanctuary for any other purpose. The Warden and his assistant were instructed to prohibit hunting in the area.

[Id. at 480-81](#). The plaintiff blocked off existing access roads on the property, with the intention of permitting the roads to become overgrown and return to their natural state. [Id. at 480](#). We concluded that the organization at issue was not "charitable," because it was "nothing in substance more than a game preserve," the purpose of which was "plainly to benefit wild animals"; provided "no benefit to the community or to the public"; and was contrary to public policy favoring state-regulated game management areas. [Id. at 484-88](#); see also [Silverman v. Town of Alton](#), 451 A.2d 103, 106 (Me. 1982) (holding that a wildlife refuge was not "in and of itself . . . a scientific institution or organization" pursuant to [36 M.R.S. § 652\(1\)\(B\)](#) (2013), and that the "incidental scientific objective to benefit the University of Maine by permitting use of the premises" was insufficient to bring the property within the exemption).

[*P16] [**1019] The Town suggests that our holdings in [Holbrook](#) and [Silverman](#) control this case. Amici Maine Coast [Heritage](#) Trust and Land Trust Alliance, Inc., in turn, urge us to overrule or [***15] limit [Holbrook](#), citing scholarly criticism of that decision. See Kirk G. Siegel, Comment, *Weighing the Costs and Benefits of Property Tax Exemption: Nonprofit Organization Land Conservation*, 49 Me. L. Rev. 399, 416 (1997) ("[[Holbrook's](#)] holding, that a benefit to wild animals did not equate to a benefit to the community and was therefore not charitable, might be assessed differently by a court with a modern awareness of the public benefits of ecosystem preservation.").

[*P17] We conclude that both [Holbrook](#) and [Silverman](#) are distinguishable. Our holding in [Holbrook](#) was based on the absence of any benefit to the public of a game preserve operated in a manner that heavily restricted public access and was contrary to public policy. See [Holbrook](#), 161 Me. at 480-81, 484-88, 214 A.2d 660. As we discuss further below, neither rationale applies here. [Silverman](#) is also inapposite, as it did not apply the exemption for benevolent and charitable organizations, but rather the exemption for scientific institutions. [451 A.2d at 105-06](#).

[*P18] Appellate courts in several other jurisdictions have concluded that land conservation is a charitable purpose, at least when coupled with public access, or where conservation of the land otherwise confers a public benefit. See, e.g., [Santa Catalina Island Conservancy v. Cnty. of L.A.](#), 126 Cal. App. 3d 221, 178 Cal. Rptr. 708, 716 (Ct. App. 1981) (concluding that "nonprofit organizations [***16] formed and conducted for the purpose of preserving natural environments and recreational opportunities for the benefit of the public come within the term 'charitable' as defined by the decisions of our Supreme Court by lessening the burdens of government"); [Turner v. Trust for Pub. Land](#), 445 So. 2d 1124, 1124, 1126 (Fla. Dist. Ct. App. 1984) (holding that a nonprofit corporation's conservation of land in its natural state entitled it to tax exemption pursuant to a Florida statute defining a charitable purpose as "a function or service which is of such a community service that its discontinuance could legally result in the allocation of public funds for the continuance of the function or service" (quotation marks omitted)); [Pecos River Open Spaces, Inc. v. Cnty. of San Miguel](#), No. 30,865, 2013-NMCA-029, 2013 WL 309847, at *5, *7 (N.M. Ct. App. Jan. 11, 2013) (holding that, "owing to the substantial public benefit derived from conservation of the Property, conservation in this case constitutes a charitable purpose that qualifies the Property for a tax exemption" pursuant to the New Mexico Constitution); [Mohonk Trust v. Bd. of Assessors](#), 47 N.Y.2d 476, 392 N.E.2d 876, 878-80, 418 N.Y.S.2d 763 (N.Y. 1979) (concluding that a trust whose purpose was "preservation of wilderness areas for the benefit of the public" was entitled to exemption pursuant to statute exempting property used exclusively for "religious, charitable, hospital, educational, moral or mental improvement of men, women or children or cemetery [***17] purposes" (quotation marks omitted)); [Little Miami, Inc. v. Kinney](#), 68 Ohio St. 2d 102, 428 N.E.2d 859, 860 (Ohio 1981) (per curiam) (holding that an organization's restoration of an island to its natural state and continued efforts to preserve the island were

in furtherance of charitable purposes and rendered the property exempt); see also *Trustees of Vt. Wild Land Found. v. Town of Pittsford*, 137 Vt. 439, 407 A.2d 174, 175-77 (Vt. 1979) (holding that land preserved in an undeveloped state was not exempt as a "public, pious or charitable use[]" where public access to the land was strictly limited (quotation marks omitted)). Several of these holdings were based in part on legislative **[**1020]** recognition of a public policy in favor of conservation. See *Santa Catalina*, 178 Cal. Rptr. at 716; *Turner*, 445 So. 2d at 1126; *Pecos River*, 2013-NMCA-029, 2013 WL 309847, at *3-5.

[*P19] Most recently, in *New England Forestry Foundation, Inc. v. Board of Assessors of Hawley*, 468 Mass. 138, 9 N.E.3d 310, 312-13 (Mass. 2014), the Supreme Judicial Court of Massachusetts held that a nonprofit land conservation organization was entitled to a tax exemption as a charitable organization. The organization's stated purpose was, in part, to "create, foster, and support conservation, habitat, water resource, open space preservation, recreational, and other activities by promoting, supporting, and practicing forest management policies and techniques to increase the production of timber in an ecologically and economically prudent manner." *Id.* at 313 (quotation marks omitted). The property at issue was a 120-acre parcel abutting a state **[***18]** forest that the organization maintained in an undeveloped state using sustainable forestry practices and opened for public recreation. *Id.* at 313-14, 321, 325-26. The Massachusetts court concluded that the organization's purposes were charitable because the environmental benefits of holding land in its natural state "inure[d] to an indefinite number of people," and because the organization "lessen[ed] the burdens of government" by "assist[ing] the State in achieving its conservation policy goals." *Id.* at 320-23.

[*P20] There can be little doubt that the Legislature has enunciated a strong public policy in favor of the protection and conservation of the natural resources and scenic beauty of Maine. For example, *38 M.R.S. § 480-A* (2013) states:

The Legislature finds and declares that the State's rivers and streams, great ponds, fragile mountain areas, freshwater wetlands, significant wildlife habitat, coastal wetlands and coastal sand dunes systems are resources of state significance. These resources have great scenic beauty and unique characteristics, unsurpassed recreational, cultural, historical and environmental value of present and

future benefit to the citizens of the State and that uses are causing the rapid degradation and, in some cases, the destruction of these critical **[***19]** resources, producing significant adverse economic and environmental impacts and threatening the health, safety and general welfare of the citizens of the State.

....

The Legislature further finds and declares that the cumulative effect of frequent minor alterations and occasional major alterations of these resources poses a substantial threat to the environment and economy of the State and its quality of life.

See also *5 M.R.S. § 6200* (2013) (finding that "the continued availability of public access to [outdoor] recreation opportunities and the protection of the scenic and natural environment are essential for preserving the State's high quality of life" and that the "public interest in the future quality and availability for all Maine people of lands for recreation and conservation is best served by significant additions of lands to the public domain"); *30-A M.R.S. § 4312(3)(F)* (2013) (identifying the protection of "critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas" as a state goal). In creating the Land for Maine's Future program, the Legislature declared that

the future social and economic well-being of the **[***20]** citizens of this State depends upon maintaining the quality and availability **[**1021]** of natural areas for recreation, hunting and fishing, conservation, wildlife habitat, vital ecologic functions and scenic beauty and that *the State, as the public's trustee, has a responsibility and a duty to pursue an aggressive and coordinated policy to assure that this Maine heritage is passed on to future generations.*

5 M.R.S. § 6200 (emphasis added). The Legislature also recognized the important role played by conservation organizations in achieving these goals. See *id.* (finding that "Maine's private, nonprofit organizations . . . have made significant contributions to the protection of the State's natural areas and . . . should be encouraged to further expand and coordinate their efforts").

[*P21] Against this legal backdrop, we consider whether the Trust is organized and conducted for benevolent and charitable purposes pursuant to Maine law. The Trust's purpose is to conserve natural

resources for the benefit of the public. The Trust has opened its properties to the public year-round, free of charge, and permits school field trips, hunting, fishing, hiking, cross-country skiing, and snowmobiling. As the Superior Court determined, [***21] the Trust essentially operates its properties in the manner of a state park in the Sawyer Mountain region. In doing so, the Trust assists the state in achieving its conservation goals, see, e.g., [5 M.R.S. § 6200](#); [30-A M.R.S. § 4312\(3\)\(F\)](#); [38 M.R.S. § 480-A](#), and "provid[es] something that government would otherwise provide, through the government system of parks, public lands, and recreational facilities," [Christian Fellowship, 2006 ME 44, P 37, 896 A.2d 287](#) (quotation marks omitted). We therefore hold that, under the circumstances of this case, the Trust is organized and conducted for benevolent and charitable purposes within the meaning of [section 652\(1\)\(C\)\(1\)](#).

[*P22] The Board reached the opposite conclusion in part because the Trust's Articles of Incorporation permit it to "engage" in "appropriate uses such as logging, farming and other compatible commercial activities." It also found that the Trust "owned" a commercial farm in Parsonsfield. We are not persuaded by this analysis. The Trust's Articles of Incorporation state, amongst a list of purposes, that "[o]ther specific purposes of the corporation shall be to . . . protect appropriate uses such as logging, farming and other compatible commercial activities within specified areas and adjacent areas."⁵ (Emphasis added.) Moreover, there was no evidence that the Trust owns a commercial farm; rather, the testimony indicated that the Trust holds a [***22] *conservation easement* on a farm property in Parsonsfield, protecting the property from further development. The treasurer of the Trust testified that the Trust plans to harvest its tree growth parcels, but only as part of an educational program on sustainable tree harvesting, with any revenue flowing back into the Trust

⁵The Trust's treasurer did testify that the "compatible commercial activities" language in the Trust's Articles of Incorporation permitted the Trust to engage in forestry. Even if we assume that the Articles of Incorporation do permit the Trust to engage in forestry and that such use would be nonexempt in the circumstances of this case, we have made clear that [HNG](#) [↑] incidental, nonexempt use of property will not render the property ineligible for exemption. See [Hebron Acad., Inc. v. Town of Hebron, 2013 ME 15, PP 20-26, 60 A.3d 774](#). A logical corollary to that holding is that an organization's incorporating documents may authorize the organization to engage in such incidental use without destroying the exemption. [***23] See *id.*

to be used in accordance with its purposes. An educational program on sustainable forestry is consistent [***1022] with the Trust's charitable purposes. See [36 M.R.S. §§ 563-564, 572](#) (2013) (declaring encouragement of operation of forest land on a "sustained yield basis" as the public policy of Maine).

[*P23] The Board also based its conclusion that the Trust is not entitled to exemption on the reasoning that the Legislature has already provided tax relief for open space land pursuant to the Farm and Open Space Tax Law, [36 M.R.S. §§ 1101-1121](#), citing the reasoning of [Cushing, 2001 Me. Super. LEXIS 50, 2001 WL 1729095, at *6](#). Likewise, the Town argues that the Legislature, in enacting the Farm and Open Space Tax Law, intended it to be the exclusive method of taxing open space land.

[*P24] This reasoning does not withstand scrutiny. [HN7](#) [↑] The charitable exemption now codified in [section 652\(1\)](#) is well established in Maine law, tracing its origins back to the 1800s. See [Hebron Acad., 2013 ME 15, PP 14-15, 60 A.3d 774](#). Nothing in the language or legislative history of the Farm and Open Space Tax Law, originally enacted in 1971, see P.L. 1971, ch. 548 (effective Sept. 23, 1971), indicates any intent to preempt or otherwise displace this longstanding exemption in the context of land conservation. Although the Farm and Open Space Tax Law provides that "[t]he assessor shall determine" whether the land is open space land, and that, if so, "that land must be classified as open space land and subject to taxation under this subchapter," [36 M.R.S. § 1109\(3\)](#) (emphasis added), that provision only comes into effect upon the landowner's "election to apply" for taxation [***24] pursuant to the statute, *id.* [§ 1103](#) (emphasis added). The Legislature, in other words, specifically made the application of the Farm and Open Space Tax Law voluntary on the part of the taxpayer. That the statute's valuation methodology recognizes and adjusts for the restricted nature of open space land, see *id.* [§ 1106-A](#), does not demonstrate legislative intent to tax such land when it is owned and used by a charitable institution.

[*P25] The Farm and Open Space Tax Law and the charitable exemption are distinct in their scope and purpose. The Farm and Open Space Tax Law describes its purpose as follows:

It is declared that it is in the public interest to encourage the preservation of farmland and open space land in order to maintain a readily available source of food and farm products close to the

metropolitan areas of the State to conserve the State's natural resources and to provide for the welfare and happiness of the inhabitants of the State, that it is in the public interest to prevent the forced conversion of farmland and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation [***25] as such farmland and open space land, and that the necessity in the public interest of the enactment of this subchapter is a matter of legislative determination.

[36 M.R.S. § 1101](#). In contrast with the specific, conservationist purposes of the Farm and Open Space Tax Law, the charitable exemption seeks to encourage all activities that are "for the benefit of an indefinite number of persons" and "lessen[] the burdens of government" by providing services in which the state has a genuine interest. See [Christian Fellowship, 2006 ME 44, PP 14, 23, 896 A.2d 287](#) (quotation marks omitted) (defining "charitable" and noting a legislative study indicating that "the original purposes of the charitable exemption were to promote not only providing services in lieu of government services, but also providing a service in which the state has a genuine interest" [**1023] (quotation marks omitted)); see also [New England Forestry Found., 9 N.E.3d at 316](#) (noting that Massachusetts's charitable exemption "does not seek to encourage charitable organizations to pursue particular substantive policy goals or charitable activities," but rather exempts certain property from taxation "on the theory that property held for philanthropic, charitable, religious, or other quasi public purposes in fact helps to relieve the burdens of government"). [***26]

[*P26] Although some of the factors by which the Farm and Open Space Tax Law defines open space land could be relevant in the application of the charitable exemption, see [36 M.R.S. §§ 1102\(6\), 1109\(3\)](#), open space land may be held by an individual or entity that does not qualify for a charitable exemption for any number of reasons, see, e.g., [id. § 652\(1\)\(A\)](#) (requiring that an organization be "incorporated by this State" in order to be entitled to exemption as a charitable institution); [Nature Conservancy of the Pine Tree State, Inc. v. Town of Bristol, 385 A.2d 39, 43 \(Me. 1978\)](#) ("Land held in its natural state does not become tax exempt by transfer to a charitable institution where the grantor retains the rights to access, passage or custodianship, more particularly since these tend to be

the only private rights of ownership exercised while land is privately being held in its natural state."). That the two statutes might overlap in their application to a particular taxpayer does not indicate legislative intent that one statute "preempt" the other. See [New England Forestry Found., 9 N.E.3d at 315-16](#) (holding that a Massachusetts statute providing tax incentives for owners of undeveloped forest land did not preempt the Massachusetts charitable exemption statute because the statutes served distinct purposes and contained no language indicating that they were mutually [***27] exclusive).

[*P27] The Town correctly notes that when two statutes are in conflict, "we favor the application of a specific statutory provision over the application of a more general provision." [Cent. Me. Power Co. v. Devereux Marine, Inc., 2013 ME 37, P 22, 68 A.3d 1262](#). We will not, however, read into the exemption statute and the Farm and Open Space Tax Law a conflict where none exists. See [Fernald v. Shaw's Supermarkets, Inc., 2008 ME 81, P 19, 946 A.2d 395; Yeadon Fabric Domes, Inc. v. Me. Sports Complex, LLC, 2006 ME 85, P 20, 901 A.2d 200](#). C. Conclusion

[*P28] Under the circumstances of this case, the Trust is entitled to exemption as a charitable and benevolent organization. Because we conclude that the Trust's property is exempt, we do not reach the issue of valuation.

The entry is:

Judgment of the Superior Court vacating the decision of the State Board of Property Tax Review affirmed.

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