



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

MEMORANDUM

JOHN ELIAS BALDACCI

DAVID P. LITTELL

GOVERNOR

COMMISSIONER

TO: The Board of Environmental Protection

FROM: Dawn Hallowell, Project Manager, Bureau of Land & Water Quality
Beth Callahan, Project Manager, Bureau of Land & Water Quality
Marybeth Richardson, Licensing Coordinator, Bureau of Land & Water Quality

RE: Mary Fournier and David Fournier Appeal of Site Location of Development Act and Natural Resources Protection Act Approval, Central Maine Power, Maine Power Reliability Program (MPRP), 78 Municipalities, 13 Counties
#L-24620-26-A-N/L-24620-TG-B-N/L-24620-VP-C-N/L-24620-IW-D-N/L-24620-L6-E-N

DATE: September 2, 2010

Statutory and Regulatory References: The applicable statutory and regulatory framework for this application is the Site Location of Development Law (Site Law), 38 M.R.S.A. § 481-490; Site Location of Development Rules, Chapter 375 §§ (5), (7), (9), (14), and (15); the Natural Resources Protection Act (NRPA) § 480-D; Scenic Impact Rules, Chapter 315 and the Significant Wildlife Habitat Rules, Chapter 335 §(3). The Site Location of Development Rules interpret and elaborate on the Site Law criteria and the Scenic Impact Rules and the Significant Wildlife Habitat Rules interpret and elaborate on the NRPA criteria. In the sections pertinent to this appeal, the Site Rules guide the Department in its determination of whether a project has adequately made provisions for buffer strips and whether a project would unreasonably adversely affect groundwater quality and scenic character. The Significant Wildlife Habitat Rules guide the Department in its determination of whether a project's impacts on the subject wildlife would be unreasonable. Procedures for appeals before the Board are outlined in the Department's Rules Concerning the Processing of Applications, Chapter 2(24)(B).

Location: The proposed project encompasses 78 municipalities from within 13 counties. The project extends from the Town of Eliot north to the Town of Orrington. The appellants are particularly aggrieved by proposed construction within Segment 27 that runs through the Towns of Eliot, South Berwick, North Berwick, Wells, and Kennebunk. Please see the attached location map for a full view of the project scope.

Procedural History and Project Description: On June 12, 2009, the licensee filed a Site Law application and NRPA applications for a permit to upgrade its electrical transmission corridor collectively in a project, known as the MPRP. The licensee proposed to upgrade 354 miles of existing electrical transmission corridor and construct an additional 6.4 miles of new electrical transmission corridor. The project consists of upgrading existing transmission systems to 345 kilovolt (kV) and 115 kV, rebuilding existing 345 kV and 115 kV lines, and the construction or expansion of 13 substations. The proposed lines will be supported on single pole structures, H-frame structures, and lattice structures.

AUGUSTA 17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017 (207) 287-7688 FAX: (207) 287-7826 RAY BLDG., HOSPITAL ST.	BANGOR 106 HOGAN ROAD BANGOR, MAINE 04401 (207) 941-4570 FAX: (207) 941-4584	PORTLAND 312 CANCO ROAD PORTLAND, MAINE 04103 (207) 822-6300 FAX: (207) 822-6303	PRESQUE ISLE 1235 CENTRAL DRIVE, SKYWAY PARK PRESQUE ISLE, MAINE 04769-2094 (207) 764-0477 FAX: (207) 760-3143
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The existing transmission corridor of Segment 27 extends a distance of approximately 19 miles and varies in width from 150 feet to 340 feet. Segment 27 consists of two different sub-segments. The northern portion of Segment 27 extends from the Maguire Road substation in Kennebunk to the Quaker Hill substation in North Berwick and contains two existing 115 kV transmission lines. The southern portion of Segment 27, which includes the appellants' property, which includes the segment on and nearby the appellants' property, extends from the Quaker Hill substation in North Berwick to the Three Rivers substation in Eliot and contains two existing 115 kV transmission lines: Section 197 supported on a single pole, and Section 250 supported on an H-frame structure. The licensee proposes to relocate Section 250 to the center of the right-of-way and construct a new 345 kV line along the southeastern right-of-way boundary, which will be called Section 3022. In the vicinity of the appellants' property, both the proposed 345 kV transmission line and relocated 115 kV transmission line will be supported on single pole structures.

The Department held three public meetings pursuant to 38 M.R.S.A. § 345-A (5) to provide all interested parties with an opportunity to provide information and ask questions of the Department regarding the project. The public meetings were held on September 15-17, 2009 in the Towns of Belfast, Lewiston, and Saco.

The Department approved the permit applications on April 5, 2010. A timely appeal to the Board was filed by the appellants on May 4, 2010.

Title, Right, or Interest: Appellants assert that the licensee did not demonstrate sufficient title, right, or interest in the property proposed for development, because the licensee did not readily provide title, right, or interest documentation to the public during the Department's review process.

Due to project's broad geographic range, the applications were made available for public review in each of the Department's regional offices. The appellants also met with Department staff and viewed the Department record at that time. The licensee submitted in the application varying forms of title, right, or interest that pertain to all of the abutting properties along the corridor. The licensee also stated that it has eminent domain authority and would result to using that power if all other negotiations failed. This documentation indicated that the licensee owns the properties, has obtained easements on the properties, has secured an option to buy the properties or will use its eminent domain authority within the project area.

Environmental Issues:

1. **GROUNDWATER QUALITY:**

The appellants assert that disruption to a nearby stream will adversely affect their water supply.

The closest stream is 900 feet from the appellants' house and is located within an emergent marsh that is mapped as a moderate value Inland Wading Bird and Waterfowl Habitat (IWWH). Because there will be many private water supply wells adjacent to the

transmission line right-of-way, the Department required that the licensee comply with a Department- developed document, entitled "Vegetation Management Plan: Maine Power Reliability Program (last revised March 31, 2010" (Amended VMP). The Amended VMP applies during project construction and long term vegetation maintenance. It states specific restrictions regarding chemical application in areas adjacent to known water supply wells, surface water, and springs.

The licensee identified the specific locations for a temporary construction access road in the right-of-way on the appellants' property. This road will cross the nearby stream in accordance with the Amended VMP, which encourage the use of timber mats and bridges. The road will be restored to original conditions after project construction.

In this proposed order the Department recommends that the Board modify the underlying Order by adding a provision which sets forth a mechanism for the appellants to notify the licensee of the location of their well, thereby requiring the licensee to take specific precautions contained in the VMP during construction approximate to the appellants' well.

2. SCENIC CHARACTER AND VEGETATION MANAGEMENT (BUFFERS):

The appellants contend that the project will cause an unreasonable visual impact on their personal property, the Eastern Trail, and nearby roads that regularly have a high amount of traffic.

For Segment 27, the single pole structures for the relocated 115 kV line will be approximately 75 feet tall and the single pole structures supporting the new 345 kV transmission line will be approximately 95 feet tall.

Department staff visited the area where the existing transmission line corridor traverses the rear of the appellants' property and observed that the appellants maintain their property, including the right-of-way, as mowed lawn. The appellants currently have unobstructed views of the existing transmission lines and their support poles. The licensee proposes to place the relocated 115 kV transmission line and the proposed 345 kV transmission line on the opposite side of both the existing 115 kV transmission line and the appellants' house, and in the vicinity of the support poles of the existing 115 kV transmission line. The appellants will be able to see the new transmission lines and support poles from their house; however, the Department determined that the view from their home will not change substantially.

The licensee conducted a visual impact assessment which evaluated potential impacts to scenic resources in Segment 27. Results of the visual impact assessment concluded that potential visual impacts to scenic resources are anticipated to be minor to moderate; potential visual impacts to residents and the recreating and working population are anticipated to be minor. In order to minimize potential visual impacts, the licensee co-located the project within the existing transmission corridor to the extent practicable and proposed a number of vegetative buffers.

The Department concluded that the project would not adversely affect the overall scenic character of the area within Segment 27, the remainder of the project area, or the surrounding area.

3. WILDLIFE:

The appellants contend that the project's access roads will adversely affect the wildlife that inhabits their land and other nearby areas.

The wetland to the northeast of the appellants' property is mapped as a moderate value Inland Waterfowl and Wading Bird Habitat. There are no other significant wildlife habitats, as defined in the NRPA, in the immediate area. As discussed above, the approved project plans show the locations of the temporary construction access roads. The nearby stream and Inland Waterfowl and Wading Bird Habitat will be crossed in accordance with the Amended VMP and the area will be restored to pre-existing conditions. On this basis, the Department found that the project will not have an unreasonable adverse effect on wildlife.

The Department found that the project will not have an unreasonable adverse effect on wildlife.

4. STORMWATER MANAGEMENT/EROSION CONTROL:

The appellants assert that the licensee did not properly restore the right-of-way on their property after the construction of an unassociated project which affected wetland areas on or adjacent to their property. The appellants also state that the Department should require more than four third party inspectors to monitor construction activities of the MPRP.

The licensee's erosion and sedimentation control plan for the MPRP was reviewed by the Department's Division of Watershed Management. The licensee proposes to use erosion and sedimentation controls during construction and remove and restore the temporary access roads to pre-construction conditions. The Department required the licensee to retain the services of at least four, third party inspectors in accordance with the Department's Special Condition for Third Party Inspection Program. These inspectors will assist the Department in overseeing the construction of the project and ensuring that the project complies with permit conditions.

In this proposed Board order the Department is recommending that the Board add a provision to the permit that makes it clear that the Department can require the licensee to retain additional third party inspectors.

Other Considerations: Appellants contend that the project should be required to comply with Maine Slash Law. The appellants further contend that the proposed project will have an adverse impact on the value of their personal property.

The Slash Law is administered by the Department of Conservation and requires slash to be minimal or removed from the site to lessen the potential for forest fires. However, the Department, in conjunction with the licensee, developed an Amended VMP that took the Slash Law into account when considering methods to enhance wildlife habitat while allowing the licensee to remain in conformance with the law.

Neither the Board nor the Department has authority to consider potential impacts to property values as a basis for determining whether permitting requirements have been satisfied under the applicable laws for any particular project.

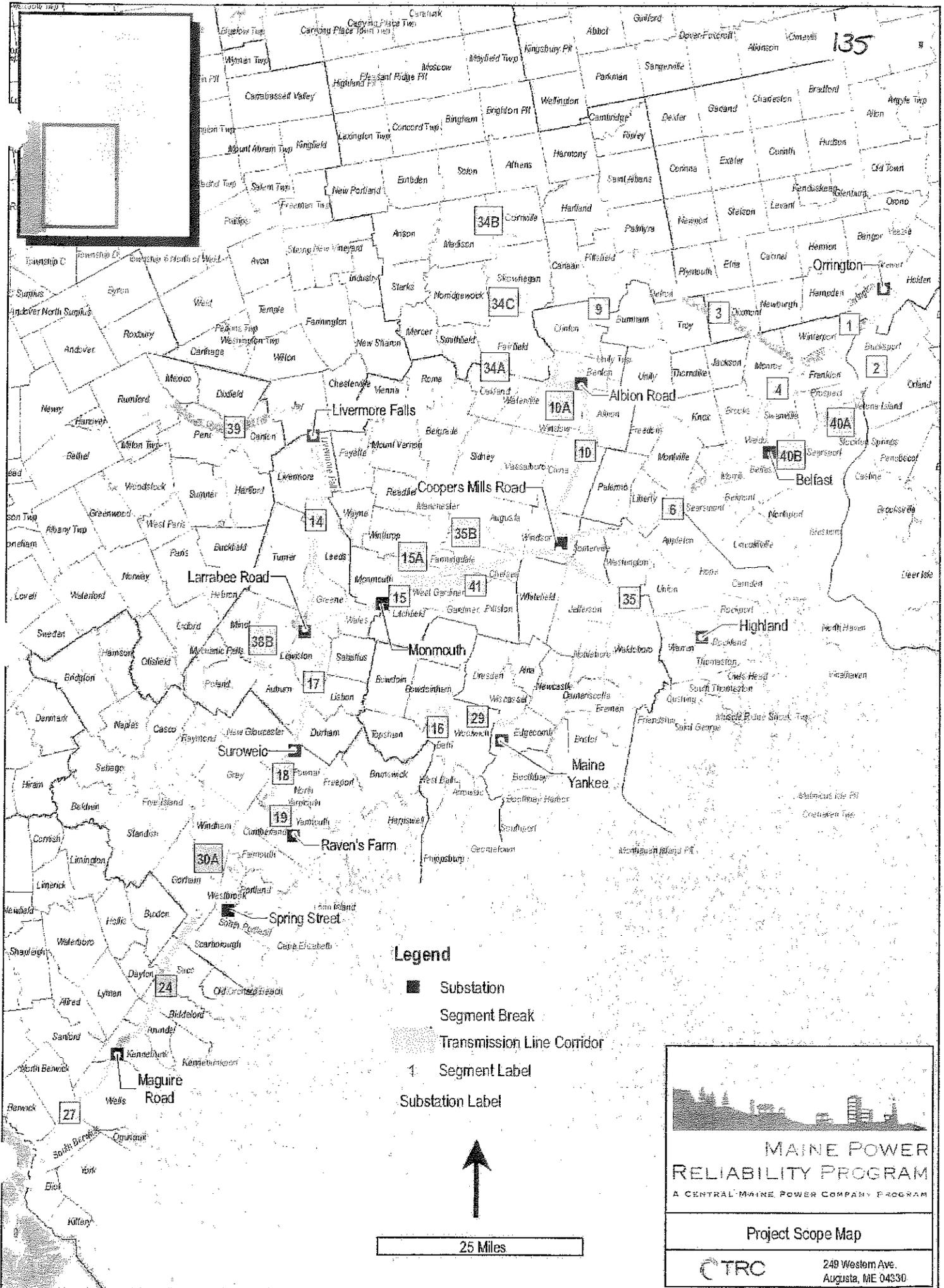
Department Recommendation: After reviewing the appellants' arguments and the licensee's response to the appeal, the Department recommends that the Board deny the appellants' request for a public hearing and affirm the Department's decision to approve the proposed upgrade to 354 miles of transmission line corridor in Department Order #L-24620-26-A-N/L-24620-TG-B-N/L-24620-VP-C-N/L-24620-IW-D-N/L-24620-L6-D-N, but with two modifications. The Department requests that the Board add the following two provisions to address issues raised by the appellants:

1. If the appellants provide the location of their well to the licensee within 60 days of the date of this Order, by either marking it on a survey plan or flagging it in the field, the licensee will then be required to follow the guidelines in the Amended VMP in the area of their well.
2. Department staff will oversee the third party inspectors and will require the licensee to hire additional third party inspectors if the project is too large for four inspectors to visit on a weekly basis.

Estimated Time of Presentation: 2 hours

Excerpt from DEP License File

- **Project Scope Map**
- **Segment 27 cross section index (June 1, 2009)**
- **Natural Resource Maps (Fournier Property – January 6, 2010)**
- **List of Project Scope (by segment)**
- **Project Description**



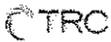
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-  Substation
 -  Segment Break
 -  Transmission Line Corridor
 -  Segment Label
 -  Substation Label





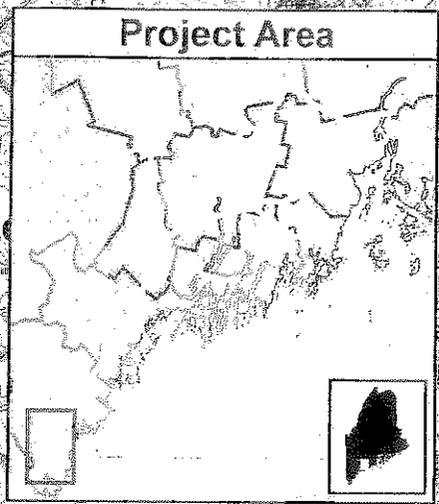
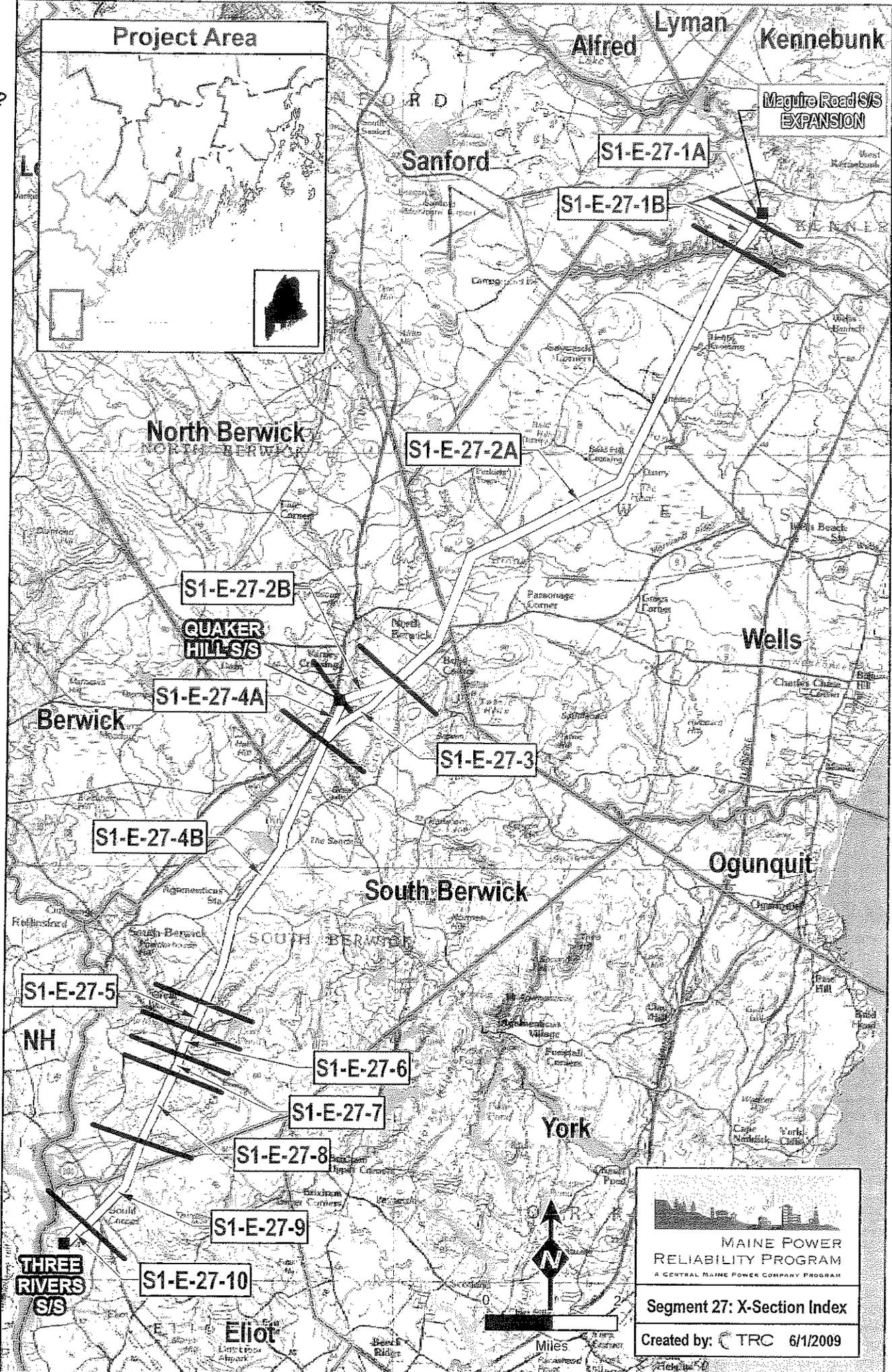
**MAINE POWER
RELIABILITY PROGRAM**
A CENTRAL MAINE POWER COMPANY PROGRAM

Project Scope Map



249 Western Ave.
Augusta, ME 04330

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MAINE POWER RELIABILITY PROGRAM
 A CENTRAL MAINE POWER COMPANY PROGRAM

Segment 27: X-Section Index

Created by: **TRC** 6/1/2009

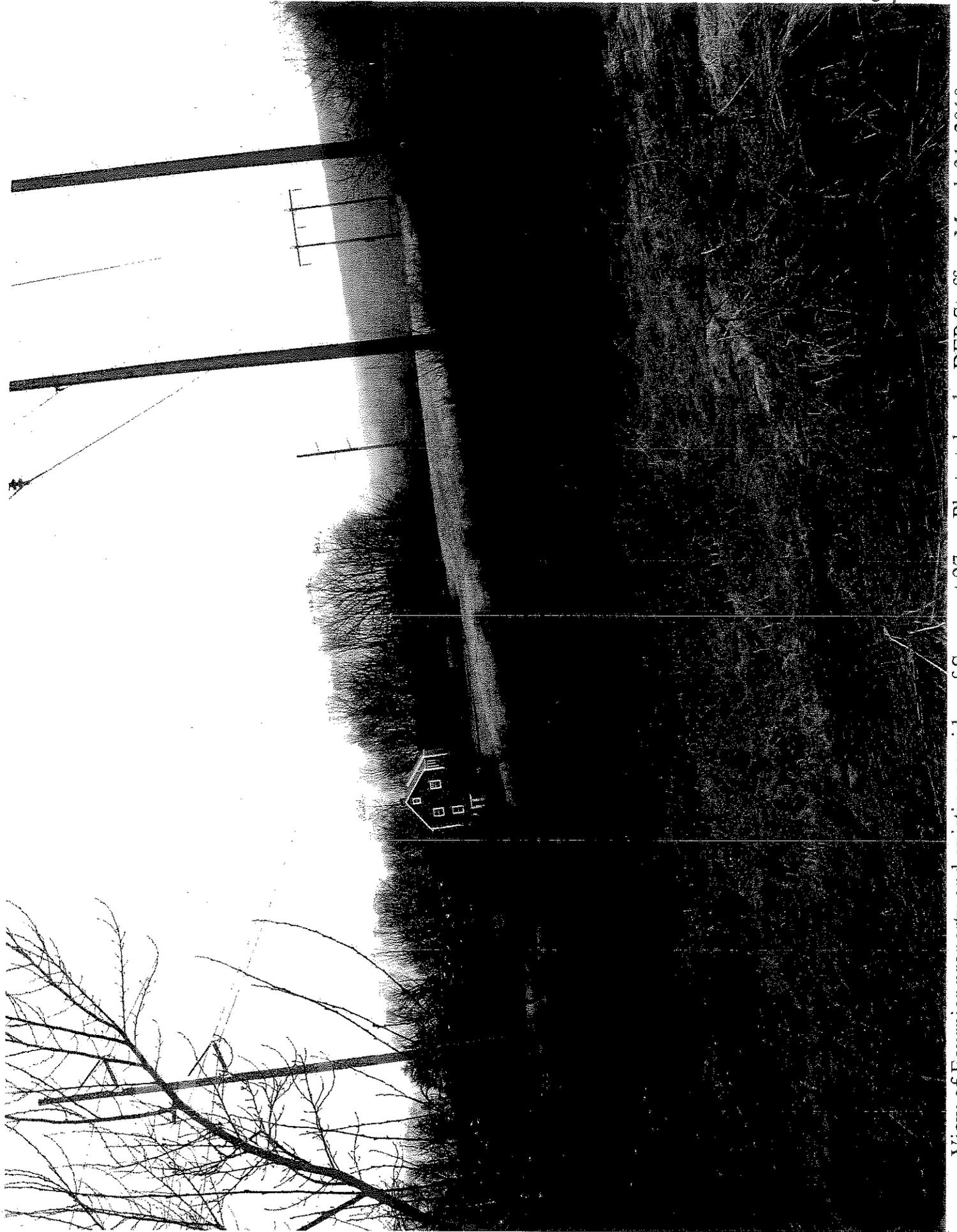
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Central Maine Power, MPRP, Segment 27

SITE VISIT SUMMARY

March 31, 2010

Present: Dawn Hallowell, MDEP
Marybeth Richardson, MDEP

On the above referenced day, Department staff visited a portion of the transmission corridor within Segment 27. Specifically, Department staff observed and surveyed the property belonging to Mary Fournier and David Fournier, the existing transmission line corridor at and within close proximity to the Fournier property, and the surrounding area. Staff viewed the transmission line from Woodside Meadow Road looking north towards the Fournier property and observed three protected natural resources: an Inland Waterfowl and Wading Bird Habitat, a nearby stream, and a nearby freshwater wetland complex. Department staff also noted that much of the Fournier property is comprised of a residential structure, an in-ground pool, and a grassed lawn. Based upon this observation and other aerial photographs contained in the application, the Department determined that the Fournier property is not a scenic resource in accordance with Chapter 315. The Department did not observe any significant scenic issues for this portion of the proposed project.



View of Fournier property and existing corridor of Segment 27. Photo taken by DEP Staff on March 31, 2010.

Maine Power Reliability Program (MPRP) Project Scope

Segment 1:	15.51 total miles
Segment 2:	0.32 total miles
Segment 3:	24.45 total miles
Segment 4:	8.87 total miles
Segment 6:	29.65 total miles
Segment 9:	19.40 total miles
Segment 10:	24.57 total miles
Segment 10A:	4.7 total miles
Segment 14:	23.20 total miles
Segment 15:	33.61 total miles
Segment 15 Alt:	6.4 total miles
Segment 16:	2.44 total miles
Segment 17:	16.06 total miles
Segment 18:	7.10 total miles
Segment 19:	5.27 total miles
Segment 24:	21.01 total miles
Segment 27:	19.06 total miles
Segment 29:	3.21 total miles
Segment 30A:	1.78 total miles
Segment 34A:	10.98 total miles
Segment 34B:	3.98 total miles
Segment 34C:	3.29 total miles
Segment 35:	21.67 total miles
Segment 35B:	6.17 total miles
Segment 38B:	10.60 total miles
Segment 39:	21.59 total miles
Segment 40A:	8.79 total miles
Segment 40B:	0.5 total miles
Segment 41:	6.3 total miles

Transmission Lines

<i>Orrington, Bucksport, Winterport, Frankfort</i>
<i>Bucksport</i>
<i>Frankfort, Monroe, Dixmont, Troy, Plymouth, Detroit</i>
<i>Frankfort, Monroe, Swanville, Waldo</i>
<i>Waldo, Morrill, Searsmont, Appleton, Liberty, Washington, Somerville, Windsor</i>
<i>Detroit, Pittsfield, Burnham, Clinton, Benton</i>
<i>Winslow, Benton, Albion, China, Windsor</i>
<i>Benton, Winslow</i>
<i>Livermore Falls, Leeds, Greene, Lewiston</i>
<i>Windsor, Chelsea, Farmingdale, West Gardiner, Litchfield</i>
<i>Monmouth, Wales, Greene, Lewiston</i>
<i>West Gardiner Litchfield Monmouth</i>
<i>Bowdoinham, Woolwich</i>
<i>Lewiston, Auburn, Durham, Pownal</i>
<i>Pownal, North Yarmouth</i>
<i>North Yarmouth, Yarmouth</i>
<i>Gorham, Scarborough, Saco, Biddeford, Arundel, Kennebunk</i>
<i>Kennebunk, Wells, North Berwick, South Berwick, Eliot</i>
<i>Woolwich, Wiscasset</i>
<i>Westbrook</i>
<i>Winslow, Benton, Fairfield, Waterville, Oakland</i>
<i>Cornville, Madison</i>
<i>Skowhegan</i>
<i>Windsor, Jefferson, Waldoboro, Washington, Warren</i>
<i>Chelsea, Augusta</i>
<i>Minot, Auburn</i>
<i>Livermore Falls, Jay, Canton, Dixfield, Peru, Rumford</i>
<i>Prospect, Stockton Springs, Searsport</i>
<i>Belfast</i>
<i>West Gardiner, Gardiner, Farmingdale</i>

Substations

Albion Road S/S:	New substation in <i>Benton</i>
Belfast S/S:	Expansion of existing substation in <i>Belfast</i>
Coopers Mills Road S/S:	New substation in <i>Windsor</i>
Highland S/S:	Expansion of existing substation in <i>Warren</i>
Larrabee Road S/S:	New substation in <i>Lewiston</i>
Livermore Falls S/S:	Expansion of existing substation in <i>Livermore Falls</i>
Maguire Road S/S:	Expansion of existing substation in <i>Kennebunk</i>
Maine Yankee S/S:	Expansion of existing substation in <i>Wiscasset</i>
Monmouth S/S:	New substation in <i>Monmouth</i>
Orrington S/S:	Upgrade of existing substation (no expansion) in <i>Orrington</i>
Raven Farm S/S:	New substation in <i>Cumberland</i>
Spring Street S/S:	Expansion of existing substation in <i>Westbrook</i>
Surowiec S/S:	Expansion of existing substation in <i>Pownal</i>