

Memo

To: Jim Beyer, EMRO Licensing & Compliance Supervisor, Bureau of Land Resources
From: Beth Callahan and Jami MacNeil, Project Managers, Bureau of Land Resources
Date: December 28, 2018
Re: New England Clean Energy Connect (NECEC) Compensation Plan Review

Per your request, Department staff reviewed the compensation plan for Central Maine Power Company's NECEC project. The Department's review is based on the information contained in the document titled NECEC Compensation Plan, dated August 13, 2018 with a last revision date of December 7, 2018 and other supporting information contained in the Department record. Below is a list of requested information and revisions that should be addressed and are described as follows:

Please include tracked changes and a Table of Contents for all subsequent modifications of the compensation plan.

Page 3: The summary (and other sections of the plan) cites the In Lieu Fee (ILF) Program Fact Sheet from 2015. This needs to be updated to include the ILF Fact Sheet from 2017, and calculations should be adjusted accordingly.

The applicant should complete and submit ILF worksheets for each biophysical region and biophysical subsection.

The applicant should submit shapefiles for all impact locations subject to ILF.

Page 4: The applicant applied a compensation adjustment of 60% to conversion impacts within SVPs, as per previous DEP correspondence. However, the applicant applied the same adjustment to compensation for conversion impacts within Inland Waterfowl and Wading Bird Habitat (IWWH) (also see page 8). This 60% adjustment was used for both ILF and for preservation. Please provide evidence in writing which confirms that the 60% adjustment rate for conversion within IWWH has been mutually agreed upon by the Department and the applicant for these proposed resource impacts.

Page 5, Table 1-1:

Permanent conversion of forested wetlands should be broken down by SVP, IWWH, and other wetlands. Please see the template ILF worksheet for clarification.

Permanent fill of freshwater wetlands of special significance (WOSS) should be broken down by SVP, IWWH, and each of the other types of WOSS (e.g., floodplain wetlands, adjacent to great pond, S1 or S2 plant communities, >20,000 s.f. open water or emergent veg, within 25' of a stream, etc).

Page 9-10, Section 1.2.1.3: Statements are made regarding the benefits of clearing IWWH. CMP should provide supporting peer-reviewed evidence to support this claim.

Page 11: The bullet point list seems to conflate Significant Wildlife Habitat and WOSS. Not all WOSS listed are designated as WOSS due to Significant Wildlife Habitat. Compensation should be broken down for each type of WOSS.

Page 25, Section 1.2.2.1: A 10% contingency fee is proposed. This needs further explanation. Specifically, how will this additional fee be applied? What criteria will be used to determine whether the contingency amount should be used and when it will be used? The applicant implies an expectation that this fee shall be refunded if not used; however, all ILF payments are non-refundable. **The Department recommends that the applicant omit the contingency fee and only propose the precise amount of ILF for resource impacts based on the ILF formula.**

Exhibit 1-3: Musson Group Report

Page 2-3: The bullet point for CMP's Development/Land Sale Policy indicates that the proposed tracts are under threat from development because CMP will sell them to a developer if they are not accepted as compensation for the proposed project. Excluding CMP's 'development/land sale policy,' describe the current and credible, not speculative, threats from development on the proposed preservation parcels. Examples of credible threats include previously permitted subdivisions, identified mining opportunities, or similar imminent threats.

Preservation Parcels:

Flagstaff Lake Tract (FTL)

- CMP should subtract out the existing conserved trail and the Huts/Trail lease corridor from the overall tract size in order to provide a more accurate parcel size
- Not all lake frontage along the parcel will be preserved. Is this privately owned? If so, show the location of all access easements and include agreements from landowners with access rights that state they agree to the terms of the conservation easement. (i.e. no new encroachment, no vegetation removal, etc.)
- Do flowage rights have any impact or potential future impact on this parcel?
 - Exhibit 1-3 page 3: "...such rights apply only to the extent to which such land has been historically flowed by the dam." Show the extent of historical flowage on a map.

- A draft conservation easement language and a commitment from the 3rd party holder must be submitted for this parcel.
- Are there any restoration opportunities on this parcel? (i.e. remove culverts, abandon trails and allow to revegetate?)

Little Jimmie Pond-Harwood Tract (LJPT)

Based on the Department's site visit to LJPT and the applicant's Hutchinson Pond MPRP preservation parcel, the final monitoring report for Hutchinson Pond and the applicant's December 4, 2018 report in regard to LJPT, the Department has determined that the proposed LJPT poses too great of a risk to accept as an appropriate method of compensation. While the Department agrees with the inventory listed in the Invasive Plant Species Survey, dated December 4, 2018, and agrees with the statement that CMP implemented invasive species treatment on the Hutchinson Pond parcel, the Department does not agree that eradication of buckthorn at the Hutchinson Pond parcel has been achieved. CMP must look for an alternative method to compensate for the loss of aquatic resource and significant wildlife habitat functions and values.

Pooler Pond Tract (PPT)

- The Forks Area Scenic Trail (FAST) runs through this tract. If this trail is currently protected, this trail should be subtracted from overall tract size.
- Are there any restoration opportunities on this parcel?
- Is the vernal pool in the southern corner of the parcel productive? Provide the data form for this vernal pool.
- A draft conservation easement and a commitment letter from a 3rd party holder must be submitted for this parcel.

The applicant should indicate whether and where they have investigated the option of doing wetland restoration projects on any sites besides the proposed preservation tracts. CMP must demonstrate that they have exhausted all mitigation opportunities besides preservation.

CMP should reassess and resubmit their resource impact and compensation calculations. The Department found many discrepancies and errors within several tables (see attached spreadsheet) within the compensation plan and other supporting documentation including Exhibit 7-5. CMP should compare those impact calculations against the values within the ILF tables.

CMP should update the Compensation Plan to reflect and include the October 2018 update for IWWH permanent upland conversion (13.31 acres proposed in Table 1-1 vs. 16.9 acres proposed in Exhibit 7-3).

Exhibit 9-10 Wetland Summary Table submitted with NECEC NRPA Application_Final_9.27.17.pdf gives substation wetland impacts as 0.00 acres; this does not match the totals given in Exhibit 7-5 NECEC Significant Vernal Pool Habitat Impact Summary (NECEC Updated Natural Resources Tables_October 2018.pdf). Please revise.

Considering the discrepancies in the SVP and IWWH impact tables, CMP should reassess, revise and resubmit the Wetland Summary Table (Exhibit 9-10) in the NRPA Application (NECEC NRPA Application_Final_9.27.17.pdf).

Exhibit 1-10, TRI for Preservation Tracts (summary table): CMP needs to identify third-party holders and provide evidence to demonstrate their experience and stewardship capabilities.

Musson Group Letter (Exhibit 1-3) mentions protection via a “conservation easement or similar document.” The applicant must submit a copy of the deed for each parcel showing that the applicant currently holds ownership to them in accordance with the Department’s Chapter 2 rules.

If you have any questions about this information, please feel free to contact us.

MAINE IN-LIEU-FEE (ILF) PROJECT IMPACT WORKSHEET

DEP Invoice # _____ *Filled in by ILF Administrator in Augusta*

Project name: NECEC

Permittee: Central Maine Power Company

DEP/Corps permit #: _____ *Attach a copy of the permit*

DEP/Corps Project Manager: Jim Beyer (DEP); Jay Clement (Corps)

ILF Fee Amount: _____

Check Date: _____ *Filled in by ILF Administrator in Augusta*

Project address: Segment 4 *Attach a locus map*

Biophysical region - Section: Central Interior & Midcoast

Biophysical region - Subsection: Casco Bay Coast

Total impact area subject to compensation: _____

Resource(s) impacted:

Resource Types (list all that apply)	Functions & Values (for wetland impacts) (list all that apply, by resource type)	Types of Impacts (list all that apply, by resource type)	SF Impacted (by resource type)	Linear FT of Streams Impacted (for Corps use)
SVP – upland CTH	WH	Conversion		
SVP – upland CTH	WH	Permanent Fill		
SVP – PFO CTH	WH	Conversion		
SVP – PSS CTH	WH	Conversion		
SVP – PEM CTH	WH	Conversion		
SVP – PFO CTH	WH	Permanent Fill		
SVP – PSS CTH	WH	Permanent Fill		
SVP – PEM CTH	WH	Permanent Fill		
Total impacts:				

Resource Types: Wetlands by NWI Type (PEM, PFO, PSS, PUB, M1, M2, E1, E2, etc), significant vernal pool depression (SVP), significant vernal pool critical terrestrial habitat (VPCTH), shorebird feeding & staging habitat (shorebird), inland waterfowl & wading bird habitat (IWWH), Tidal waterfowl & wading bird habitat (TWWH), lake or pond (L1, L2), river/stream/brook (RSB)

Wetland Functions & Values: Groundwater recharge/discharge (GWR); floodflow alteration (FF); fish & shellfish habitat (FSH); sediment toxicant retention (STR); nutrient removal (NR); production export (PE); sediment/shoreline stabilization (SS); recreation (R); education/scientific value (ESV); uniqueness/heritage (UH); and visual quality/aesthetics (VQ); wildlife habitat (WH)

Types of Impacts: May include: filling, dredging, vegetation conversion (e.g. forested to shrub/scrub), excavation with associated discharge, etc.

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Biophysical region - Section: Central Interior & Midcoast

Biophysical region - Subsection: Central Maine Embayment Subsection

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SVP – upland CTH	WH	Permanent Fill		
SVP – PFO CTH	WH	Conversion		
SVP – PSS CTH	WH	Conversion		
SVP – PEM CTH	WH	Conversion		
SVP – PFO CTH	WH	Permanent Fill		
SVP – PSS CTH	WH	Permanent Fill		
SVP – PEM CTH	WH	Permanent Fill		
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Project address: _____ *Attach a locus map*

Biophysical region - Section: Central Interior & Midcoast

Biophysical region - Subsection: Penobscot Bay Coast Subsection

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SVP – upland CTH	WH	Permanent Fill		
SVP – PFO CTH	WH	Conversion		
SVP – PSS CTH	WH	Conversion		
SVP – PEM CTH	WH	Conversion		
SVP – PFO CTH	WH	Permanent Fill		
SVP – PSS CTH	WH	Permanent Fill		
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Project address: _____ *Attach a locus map*

Biophysical region - Section: Central & Western Mountains

Biophysical region - Subsection: Maine Central Mountains Subsection

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SVP – PSS CTH	WH	Conversion		
SVP – PEM CTH	WH	Conversion		
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Biophysical region - Section: Central & Western Mountains

Biophysical region - Subsection: Western Maine Foothills Subsection

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Project address: _____ *Attach a locus map*

Biophysical region - Section: Central & Western Mountains

Biophysical region - Subsection: Maine Central Mountains Subsection

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PFO (Non-SWH WoSS)		Fill		
PSS (Non-SWH WoSS)		Fill		
PEM (Non-SWH WoSS)		Fill		
Total impacts:				

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DEP/Corps permit #: _____ *Attach a copy of the permit*

DEP/Corps Project Manager: Jim Beyer (DEP); Jay Clement (Corps)

ILF Fee Amount: _____

Check Date: _____ *Filled in by ILF Administrator in Augusta*

Project address: _____ *Attach a locus map*

Biophysical region - Section: Central Interior & Midcoast

Biophysical region - Subsection: Penobscot Bay Coast Subsection

Total impact area subject to compensation: _____

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PFO (Non-SWH WoSS)		Fill		
PSS (Non-SWH WoSS)		Fill		
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Project address: Segment 4 *Attach a locus map*

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Total impacts:				

Resource Types: Wetlands by NWI Type (PEM, PFO, PSS, PUB, M1, M2, E1, E2, etc), significant vernal pool depression (SVP), significant vernal pool critical terrestrial habitat (VPCTH), shorebird feeding & staging habitat (shorebird), inland waterfowl & wading bird habitat (IWWH), Tidal waterfowl & wading bird habitat (TWWH), lake or pond (L1, L2), river/stream/brook (RSB)

Wetland Functions & Values: Groundwater recharge/discharge (GWR); floodflow alteration (FF); fish & shellfish habitat (FSH); sediment toxicant retention (STR); nutrient removal (NR); production export (PE); sediment/shoreline stabilization (SS); recreation (R); education/scientific value (ESV); uniqueness/heritage (UH); and visual quality/aesthetics (VQ); wildlife habitat (WH)

Types of Impacts: May include: filling, dredging, vegetation conversion (e.g. forested to shrub/scrub), excavation with associated discharge, etc.

MAINE IN-LIEU-FEE (ILF) PROJECT IMPACT WORKSHEET

DEP Invoice # _____ *Filled in by ILF Administrator in Augusta*

Project name: NECEC

Permittee(s): Central Maine Power Company

DEP/Corps permit #: _____ *Attach a copy of the permit*

DEP/Corps Project Manager: Jim Beyer (DEP); Jay Clement (Corps)

ILF Fee Amount: _____

Check Date: _____ *Filled in by ILF Administrator in Augusta*

Project address: Segment 4 *Attach a locus map*

Biophysical region - Section: Central Interior & Midcoast

Biophysical region - Subsection: Casco Bay Coast

Total impact area subject to compensation: _____

Resource(s) impacted:

Resource Types (list all that apply)	Functions & Values (for wetland impacts) (list all that apply, by resource type)	Types of Impacts (list all that apply, by resource type)	SF Impacted (by resource type)	Linear FT of Streams Impacted (for Corps use)
PFO		Fill		
PSS		Fill		
PEM		Fill		
		Total impacts:		

Resource Types: Wetlands by NWI Type (PEM, PFO, PSS, PUB, M1, M2, E1, E2, etc), significant vernal pool depression (SVP), significant vernal pool critical terrestrial habitat (VPCTH), shorebird feeding & staging habitat (shorebird), inland waterfowl & wading bird habitat (IWWH), Tidal waterfowl & wading bird habitat (TWWH), lake or pond (L1, L2), river/stream/brook (RSB)

Wetland Functions & Values: Groundwater recharge/discharge (GWR); floodflow alteration (FF); fish & shellfish habitat (FSH); sediment toxicant retention (STR); nutrient removal (NR); production export (PE); sediment/shoreline stabilization (SS); recreation (R); education/scientific value (ESV); uniqueness/heritage (UH); and visual quality/aesthetics (VQ); wildlife habitat (WH)

Types of Impacts: May include: filling, dredging, vegetation conversion (e.g. forested to shrub/scrub), excavation with associated discharge, etc.

**MAINE IN-LIEU-FEE (ILF)
PROJECT IMPACT WORKSHEET**

DEP Invoice # _____ *Filled in by ILF Administrator in Augusta*

Project name: NECEC

Permittee: Central Maine Power Company

DEP/Corps permit #: _____ *Attach a copy of the permit*

DEP/Corps Project Manager: Jim Beyer (DEP); Jay Clement (Corps)

ILF Fee Amount: _____

Check Date: _____ *Filled in by ILF Administrator in Augusta*

Project address: _____ *Attach a locus map*

Biophysical region - Section: Central Interior & Midcoast

Biophysical region - Subsection: Penobscot Bay Coast Subsection

Total impact area subject to compensation: _____

Resource(s) impacted:

Resource Types (list all that apply)	Functions & Values (for wetland impacts) (list all that apply, by resource type)	Types of Impacts (list all that apply, by resource type)	SF Impacted (by resource type)	Linear FT of Streams Impacted (for Corps use)
PFO		Fill		
PSS		Fill		
PEM		Fill		
Total impacts:				

Resource Types: Wetlands by NWI Type (PEM, PFO, PSS, PUB, M1, M2, E1, E2, etc), significant vernal pool depression (SVP), significant vernal pool critical terrestrial habitat (VPCTH), shorebird feeding & staging habitat (shorebird), inland waterfowl & wading bird habitat (IWWH), Tidal waterfowl & wading bird habitat (TWWH), lake or pond (L1, L2), river/stream/brook (RSB)

Wetland Functions & Values: Groundwater recharge/discharge (GWR); floodflow alteration (FF); fish & shellfish habitat (FSH); sediment toxicant retention (STR); nutrient removal (NR); production export (PE); sediment/shoreline stabilization (SS); recreation (R); education/scientific value (ESV); uniqueness/heritage (UH); and visual quality/aesthetics (VQ); wildlife habitat (WH)

Types of Impacts: May include: filling, dredging, vegetation conversion (e.g. forested to shrub/scrub), excavation with associated discharge, etc.