

**APPENDIX A**  
**DOCUMENT REVIEW LIST/REFERENCES**

## DOCUMENTS REVIEWED/REFERENCES CITED

City of Augusta, ME, Land Use Ordinance.

Flood Insurance Rate Map, City of Augusta, Maine, Kennebec County, Community-Panel Number 230067 0011 C. June 15, 1994.

ICF – Clement, Inc., 1988. *Endangerment Assessment for the O'Connor Site in Augusta, Maine.*

The Smart Associates, 2000. *1999 Wetland Construction Monitoring Report*, O'Connor Company Site, Augusta, Maine; August 15, 2000.

The Smart Associates, 2001. *2000 Wetland Construction Monitoring Report*, O'Connor Company Site, Augusta, Maine; March 13, 2001.

USEPA, 1989. *Record of Decision Summary*; U.S. Environmental Protection Agency, Region 1, Boston, Massachusetts, September 1989.

USEPA, 1990. *Guidance on Remedial Actions for Superfund Sites with PCB Contamination, OSWER Directive No. 9355.4-01.* August 1990.

USEPA, 1991. "Consent Decree – United States of America, Plaintiff v. Central Maine Power Company, Defendant." September 3, 1991.

USEPA, 1994. *Declaration for the Explanation of Significant Differences*, O'Connor Company Superfund Site, Augusta, Maine, July 11, 1994.

USEPA, 1995. *Invocation of Contingency Remedy*, O'Connor Company Superfund Site, Augusta, Maine, October 10, 1995.

USEPA, 2001. *Comprehensive Five-Year Review Guidance, OSWER Directive 9355.7-03B-P.* June 2001.

US Fish & Wildlife Service, 2001. Comments on The Smart Associates, 2000 Wetlands Construction Monitoring Report. June 29, 2001.

Woodard & Curran, 1996. *Source Control Remedial Action Community Relations Plan*, Woodard & Curran, Inc., July 1996.

Woodard & Curran, 1997. *Data Collection and Interpretation of the Phase II Operation of the Vacuum Enhanced Recovery (VER) System at the O'Connor Site in Augusta, Maine*, Woodard & Curran Inc., June 27, 1997.

Woodard & Curran, 1999. *MOM Sampling and Analysis Quarterly Report, March 1999*, O'Connor Company Superfund Site, Augusta, Maine, June 8, 1999.

Woodard & Curran, 2000. *Draft Request for Technical Impracticability Waiver for OU-2 Management of Migration*, O'Connor Company Superfund Site, Augusta, Maine, April 2000.

Woodard & Curran, 2001a. *Revised Long-Term Groundwater Quality Monitoring Program and Phase III VER Work Plan*, O'Connor Company Superfund Site, Augusta, Maine, July 25, 2001.

Woodard & Curran, 2001b. *2000 Riggs Brook Sediment and Biota Monitoring Report*, O'Connor Company Superfund Site, Augusta, Maine, July 2001.

Woodard & Curran, 2001c. *MOM Sampling and Analysis Quarterly Report*, O'Connor Company Superfund Site, Augusta, Maine, October 26, 2001.

Woodard & Curran, 2001d. *Draft VER Phase III Report*, O'Connor Company Superfund Site, Central Maine Power Company, Augusta, Maine December 2001.

Woodard & Curran, 2001e. *2001 Riggs Brook Sediment Monitoring Report*, O'Connor Company Superfund Site, Augusta, Maine, December 2001.

Woodard & Curran, 2002. *Draft O'Connor Superfund Site Five-Year Review Document*. April 2002.

**APPENDIX B**  
**SITE INSPECTION REPORT**

**O'Connor Company Site Inspection – May 22, 2002**  
**Five Year Review, WA# 123-FRFE-0133**

Attendees:

Nancy Smith – EPA WAM  
Terry Connelly – EPA RPM  
Wilkes Harper – MEDEP, Project Manager  
Hank Andolsek – MEDEP, Geologist  
Phoebe Call – TtNUS, EPA Contractor, Project Manager  
Katie Lang – TtNUS, EPA Contractor, Project Scientist  
Roy Koster – Central Maine Power, Senior Environmental Specialist  
John Carroll – Central Maine Power, Community Relations Specialist  
Lori Moreau – Woodard & Curran – RP Contractor

The Site Inspection commenced at approximately 9:10 AM and concluded approximately 11:30 AM. Weather was sunny, approximately 60 degrees. Observations made by the EPA contractor and other participants are noted below. Follow up interviews with site inspection participants will be made at a later date.

Field Notes:

The Site is no longer secured with fencing. The fence was removed from the active treatment areas after the clean fill cover was placed over the excavated areas and seeding was completed.

The dirt access road is in good repair. The Site appears as well vegetated rolling hills, with an upland marsh and two downgradient restored wetland areas. The Site is unattended.

No signage was observed either identifying the Site or restricting access.

The vegetation is well established; mowing has generally not been required.

Monitoring wells were easy to locate since they have high stickups. Mowing might be required in the summer months to ensure access to wells as required for ongoing monitoring activities.

No records are retained at the Site. There is no treatment equipment, piping, etc. remaining at the Site.

There has been no documented vandalism or trespassing on the Site, either before or after the perimeter fence was in place.

The remaining monitoring wells are not all secured with well locks.

The Year 5 wetland restoration monitoring event will take place this year.

CMP personnel check the Site and the wells in the TWA II area for floating oil on a monthly basis. Oil is collected with absorbent pads, which are taken off site to a CMP transfer facility in Augusta. No hazardous materials are stored on the Site.

The oil remaining in the TWA II area is in a very tight clay formation. Last year the vacuum-enhanced recovery (VER) operation recovered 20 gallons of oil. CMP personnel stated that 17 gallons were recovered from the bedrock and 3 gallons from shallow wells.

The RP contractor noted that due to the geology of the area there is no overburden aquifer. In some areas that were excavated to a depth of 12 feet during source control groundwater was not encountered. Due to the clays perched groundwater exists.

The pending TI waiver and ROD amendment for OU2 was discussed at length. Issues as to the boundaries of the 'designated area', area covered by the TI waiver, etc. have yet to be settled. The waiver will acknowledge that the groundwater in that area (once boundaries are set) can not be cleaned up as originally envisioned, but efforts will likely continue using VER as long as the process continues to remove oil.

CMP personnel noted that old aerial photos showed the area as open fields. It is thought that the current open areas of the Site existed during site operations and woods became established in undisturbed areas of the site. No trees were removed during the remedial activities at the Site.

When the two lagoons were dewatered and remediated, a swale was constructed to guide overland flow from the lagoons down the steep slope toward the wetlands surrounding Riggs Brook. The reconstructed lagoon embankments and swales were in good repair.

New development in Augusta is on the west side of the Kennebec River. The Site is on the east side and there has been no new development along Route 17 in the area of the Site since remedial activities began. The only new structure observed was a home on top of a nearby hill recently constructed on land formerly owned by CMP east of Riggs Brook.

During the source control excavations some monitoring wells had to be decommissioned.

The Superfund Site boundary is the same as the boundary in the Restrictive Covenant between CMP and MEDEP. This area encompasses 23 acres; the 'designated area' is about 3 acres. A Restrictive Covenant has been signed by both parties and is being held by MEDEP. This document provides institutional controls limiting groundwater use while active remediation is underway.

Sampling of biota and sediment in Riggs Brook has shown PCB contaminant concentrations in fish and frogs below the standards. There have been a few sediment hot spots containing PCB concentrations just over the applicable standard identified during the annual sediment sampling.

The Site was regraded to match the original contours as closely as possible. The soil cover is well vegetated. There were no areas of erosion noted.

CMP personnel perform site inspections twice annually and document their observations.

There were many birds observed, especially in the wetland areas. A garter snake was found on the slope between the former upper and lower lagoons.

O&M costs have been provided by the RP contractor as part of their information for the five-year review.

The remedies as currently implemented are effective and functioning as designed. As noted above the TWA II area is the subject of a TI waiver request from CMP. Post source control RA activities continue, groundwater monitoring continues on a semi-annual basis. Oil in wells in the TWA II area is removed on a monthly basis when evident. VER will likely continue as long as it is effective in removing additional oil.

### **AUGUSTA MUNICIPAL OFFICES – CITY SERVICES DEPARTMENT**

Obtained flood plain maps and zoning maps for the area of the Site.

The clerk knew of the Site and its location but was not familiar with details.

### **LITHGOW PUBLIC LIBRARY**

Personnel at the library confirmed that the O'Connor Site documents are in the basement of the library. Individuals have accessed them in the past, but not have not done so recently.

**O'CONNOR SITE INSPECTION  
PHOTOGRAPHIC RECORD**



**Photo No.:** 1

**Date:** 5/22/02

**Comments:** At the high point of the Site at the TWA III area, on the road, looking toward Route 17.



**Photo No.:** 2

**Date:** 5/22/02

**Comments:** Toward the wetland area west of the access road.

**O'CONNOR SITE INSPECTION  
PHOTOGRAPHIC RECORD**



**Photo No.:** 3

**Date:** 5/22/02

**Comments:** From the TWA II area toward the lower lagoon.



**Photo No.:** 4

**Date:** 5/22/02

**Comments:** From the lower lagoon area looking toward Riggs Brook and its wetlands.

**O'CONNOR SITE INSPECTION  
PHOTOGRAPHIC RECORD**



**Photo No.:** 5

**Date:** 5/22/02

**Comments:** Standing on the concrete dam at the end of the upper lagoon looking east toward the lower lagoon and Riggs Brook.



**Photo No.:** 6

**Date:** 5/22/02

**Comments:** At the top of the swale with back to the upper lagoon.

**O'CONNOR SITE INSPECTION  
PHOTOGRAPHIC RECORD**



**Photo No.:** 7

**Date:** 5/22/02

**Comments:** Upland wet area.



**Photo No.:** 8

**Date:** 5/22/02

**Comments:** Upper lagoon/wetland

**O'CONNOR SITE INSPECTION  
PHOTOGRAPHIC RECORD**



**Photo No.:** 9

**Date:** 5/22/02

**Comments:** On Route 17 end of access road facing uphill.

**APPENDIX C**  
**SITE INTERVIEW LIST**

**INDIVIDUALS INTERVIEWED FOR THE O'CONNOR FIVE-YEAR REVIEW**

<b>Name/Position</b>	<b>Organization/Location</b>	<b>Date*</b>
William Bridgeo/ City Manager	City of Augusta, ME	June 3, 2002
John Carroll/ Community Relations Specialist	Central Maine Power/Augusta, ME	May 22, 2002 & May 29, 2002
Wilkes Harper/Project Manager	Maine DEP/Augusta, ME	May 22, 2002 & June 10, 2002
Roy Koster/Senior Environmental Specialist	Central Maine Power/Augusta, ME	May 22, 2002
Steve Mierzykowski/ Biologist	US Fish & Wildlife Service/Old Town, ME	June 19, 2002
Lori Moreau/PRP contractor	Woodard & Curran,/Portland, ME	May 22, 2002 & May 29, 2002
Horace Rodrigue/ neighbor	Cony Road, Augusta, ME	June 3, 2002
Cornell Rosiu	USEPA/Boston, MA	June 20, 2002

\* May 22, 2002 interviews were conducted during the site inspection; all other interviews were conducted via telephone.

**APPENDIX D**  
**ARARS AND TBCS**

**IDENTIFICATION OF PROBABLE CHEMICAL-SPECIFIC ARARS AND TO-BE-CONSIDERED CRITERIA, ADVISORIES, AND GUIDANCE**

<b>REQUIREMENT/GUIDANCE</b>	<b>STATUS</b>	<b>REQUIREMENT/GUIDANCE SYNOPSIS</b>
<b>GROUNDWATER</b>		
<i>Federal Regulatory Requirements and Guidance</i>		
SDWA – Section 1412 -MCLs (40 CFR 141.11-141.16)	Relevant and Appropriate	MCLs have been promulgated for several common organic and inorganic contaminants. These levels regulate the concentration of contaminants in public drinking water supplies, but may also be considered relevant and appropriate for groundwater aquifers used for drinking water.
USEPA Risk Reference Doses (RfDs) (USEPA, November 1999, Integrated Risk Information System)	To be considered	RfDs are an estimate of a daily exposure concentration that is likely to be without appreciable risk of deleterious effects during a lifetime exposure.
USEPA Carcinogen Assessment Group Carcinogenic Potency Factors (CPFs) (USEPA, RAGs, March 1995)	To be considered	The CSF is used to estimate an upper-bound probability of an individual developing cancer as a result of a lifetime exposure to a particular concentration of a potential carcinogen.
USEPA Health Advisories (HAs) (USEPA, Drinking Water and Health Advisories, rev. October 25, 1998)	To be considered	HAs are issued as non-regulatory guidance. HA values represent the concentration of contaminants in drinking water at which adverse health effects would not be expected to occur. HAs are established for one-day and ten-day exposure durations.
<i>State of Maine Regulatory Requirements and Guidance</i>		
Maine Standards for Classification of Groundwater (38 M.R.S.A., Chapter 3, Section 470)	Applicable	Groundwater is classified under the Maine Standards. The groundwater at the O'Connor Site is classified as GW-A (i.e., water shall be of such quality that it can be used for domestic purposes.
Maine Drinking Water Rules (10-144A CMR Chapters 231-233)	Relevant and Appropriate	Maine's Primary Drinking Water Standards are equivalent to federal MCLs.

**IDENTIFICATION OF PROBABLE CHEMICAL-SPECIFIC ARARs AND TO-BE-CONSIDERED CRITERIA, ADVISORIES, AND GUIDANCE (CONTINUED)**

REQUIREMENT/GUIDANCE	STATUS	REQUIREMENT/GUIDANCE SYNOPSIS
<b>GROUNDWATER</b>		
<i>State of Maine Regulatory Requirements and Guidance (cont'd.)</i>		
Rules Relating to Testing of Private Water systems for Potentially hazardous Contaminants (10-144A C.M.R. Chapter 233, Appendix C)	Relevant and Appropriate	These results establish criteria for potentially hazardous contaminants occurring in private residential water systems.
Hazardous Waste Management Rule (06-096 C.M.R. Chapter 854)	Relevant and Appropriate	This rule establishes performance standards for establishment, construction, alteration, and operation of hazardous waste management units, including miscellaneous units. "No landfilled hazardous waste or constituent or derivative thereof shall appear in ground or surface waters at a concentration above background level, or above current public health drinking water standards for Maine, including the Maximum Exposure Guidelines, or standards for aquatic toxicity, whichever is more stringent (Chapter 854, 58(A)(3)(a)).
Draft Interim Maine Maximum Exposure Guidelines (MEGs) (Bureau of Health, Maine Department of Human Services, January 3, 2000)	To be considered	MEGs are the Bureau of Health's most recent recommendations for concentrations of chemical contaminants in drinking water. MEGs are health-based guidelines and are not legally enforceable.
<b>SOIL/SEDIMENT</b>		
<i>Federal Guidance</i>		
USEPA Guidance on Remedial Actions for Superfund Sites with PCB Contamination (OSWER Directive 9355.4-01, August, 1990)	To be considered	This guidance describes the recommended approach for evaluating and remediating Superfund sites with PCB contamination.
USEPA Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities, (OSWER Directive 9355.4-12, August, 1994)	To be considered	This interim directive establishes a streamlined approach for determining protective levels for lead in soil at CERCLA sites and RCRA facilities that are subject to corrective action.

**IDENTIFICATION OF PROBABLE CHEMICAL-SPECIFIC ARARS AND TO-BE-CONSIDERED CRITERIA, ADVISORIES, AND GUIDANCE (CONTINUED)**

<b>REQUIREMENT/GUIDANCE</b>	<b>STATUS</b>	<b>REQUIREMENT/GUIDANCE SYNOPSIS</b>
<b>SOIL/SEDIMENT</b>		
<i>Federal Guidance</i>		
National Oceanic and Atmospheric Administration Effects Range-Low Concentrations for Sediments	To be considered	National Oceanic and Atmospheric Administration Effects Range-Low concentrations for sediments identify contaminant concentrations that have the potential for environmental impact.
Ontario Sediment Quality Criteria (OMOEE, 1996)	To be considered	Ontario, Canada Ministry of Environment and Energy developed cleanup standards for 106 organic and inorganic contaminants that protect ecological receptors. These promulgated standards are based primarily on freshwater effects.
USEPA 1996 Sediment Quality Benchmarks (SQBs)	To be considered	SQBs were developed by USEPA for use in the Superfund screening process. These are contaminant concentrations above which there is concern regarding adverse ecological effects.
Oak Ridge National laboratory 1997 Sediment Quality Benchmarks (Jones et al., 1997)	To be considered	SQBs were developed by ORNL using updated Tier II surface water secondary chronic values.
Sediment Quality Advisory Levels (SQAL) (USEPA, 1997)	To be considered	SQALs were developed as a part of the National Sediment Quality Survey conducted by USEPA.
USEPA Region IV Sediment Screening Values (1996)	To be considered	Sediment screening guidelines have been compiled by Region IV from several sources (MOE, NOAA, and Region V) and are primarily used on marine information although varying amounts of freshwater data are considered.
<i>State Guidance, etc.</i>		
Maine DEP, Implementation of Remedial Action Guidelines (MEDEP, Updated May 20, 1997)	To be considered	The guidance provides concentration levels for direct contact exposure levels for contaminants that are protective of residential, trespasser, and adult worker populations.

**IDENTIFICATION OF PROBABLE LOCATION-SPECIFIC ARARS AND TO-BE-CONSIDERED CRITERIA, ADVISORIES, AND GUIDANCE**

<b>REQUIREMENT/GUIDANCE</b>	<b>STATUS</b>	<b>REQUIREMENT/GUIDANCE SYNOPSIS</b>
<b>WETLANDS/FLOODPLAINS</b>		
<i>Federal Regulatory Requirements</i>		
National Environmental Policy Act (NUSEPA, 42 USC § 4341) and Wetland Executive Order (EO11990), 40 CFR Part 6, Appendix A	Applicable	The Wetlands Executive Order requires federal agencies to minimize the destruction, loss, or degradation of wetlands, and preserve and enhance natural and beneficial values of wetlands.
Clean Water Act Section 404 Requirements for Dredged or Fill Material (33 USC 1344; 40 CFR 230)	Applicable	Under this requirement, no activity that adversely affects a wetland shall be permitted if a practicable alternative is available.
<i>State of Maine Regulatory Requirements</i>		
Maine Natural Resources Protection Act (NRPA, 38 MRSA § 480) and Permit By Rule Standards (MEDEP Regulations Ch. 305	Applicable	This act outlines requirements and performance standards for certain activities in, on, over, or adjacent to freshwater wetlands, streams, ponds, or brooks. The activities must not unreasonably interfere with certain natural features, such as natural flow or quality of any waters, nor harm significant aquatic habitat, freshwater fisheries, or other aquatic life.
<b>OTHER NATURAL RESOURCES</b>		
<i>State of Maine Regulatory Requirements</i>		
Maine Standards for Classification of Groundwater (38 MRSA, §§ 465-C and 470)	Applicable	This law establishes the classification of the state's groundwater to protect, conserve, and maintain groundwater resources in the interest of the health, safety, and general welfare of the people of the state. Groundwater is classified as GW-A, the highest groundwater classification, and is designated as a potential water supply. This classification applicable to remedial objectives.
<i>State of Maine Guidance</i>		
Maine Critical Areas Program and Maine Natural Heritage Program	To be considered	These state programs issue policies and regulations governing special habitats or communities.
Maine Critical Areas Act (5 MRSA §§ 3310-3316)	To be considered	This non-regulatory legislation allows Maine agencies such as the Critical Areas Program and the Natural Heritage Areas Program to identify, research, and protect critical areas and endangered or threatened plants.

**IDENTIFICATION OF PROBABLE LOCATION-SPECIFIC ARARS AND TO-BE-CONSIDERED CRITERIA, ADVISORIES, AND GUIDANCE  
(CONTINUED)**

REQUIREMENT/GUIDANCE	STATUS	REQUIREMENT/GUIDANCE SYNOPSIS
<b>OTHER NATURAL RESOURCES</b>		
<i>Municipal Regulatory Requirements</i>		
Mandatory Shoreland Zoning (38 MRSA §§ 435-449) Town Shoreland Zoning Ordinances and State Minimum Guidelines (38 MRSA §§ 1801-1803, 1841-1843-A, 1901-1905, 2013) and City of Augusta Comprehensive Plan/Shoreland Zoning Plan	To be considered	These minimum guidelines and town ordinances apply to activities proposed within 250 feet of a high-water mark of a stream or other body of water.

**IDENTIFICATION OF PROBABLE ACTION-SPECIFIC ARARS**

REQUIREMENT/GUIDANCE	STATUS	REQUIREMENT/GUIDANCE SYNOPSIS
<b>GROUNDWATER</b>		
<i>Federal Regulatory Requirements</i>		
TSCA (15 USC §§ 2601-2692) and Polychlorinated Biphenyls (PCBs) Regulations (40 CFR 761: Subpart G, PCB Cleanup Policy; and Subpart C and D, Markings, Storage and Disposal)	Relevant and Appropriate	These requirements apply to the marking, storage, disposal, and cleanup of PCBs greater than 50 ppm that occur after their respective effective dates. The PCB Spill Cleanup Policy, Subpart, applies to spills of PCB greater than 50 ppm that occurred after its effective date (i.e., May 4, 1987).
U.S. Department of Transportation Rules for Transportation of Hazardous Materials (49 C.F.R. Parts 107, 171.1-172.558)	Relevant and Appropriate	This regulation outlines procedures for the packaging, labeling, manifesting, and transportation of hazardous materials. If residuals from groundwater treatment and/or recovered free product are classified as hazardous, the materials will be packaged, manifested, and transported to a licensed off-site disposal facility in compliance with these regulations

**APPENDIX E**

**DECLARATION OF RESTRICTIVE COVENANT AND MAP SHOWING AREA COVERED BY  
COVENANT**

## AGREEMENT RELEASE AND STIPULATION

This Agreement, Release and Stipulation is entered among the State of Maine and Maine Department of Environmental Protection (collectively called "Department") and Central Maine Power Company, Inc. ("CMP"), for the purposes of resolving claims by the Department against CMP arising from conditions on a parcel of real property, more particularly described in the attached Declaration of Restrictive Covenant, which parcel CMP owns and which parcel the Department has designated as an "uncontrolled hazardous substance site" pursuant to 38 M.R.S.A. §§ 1364 - 1365, and attaching conditions to said parcel of real property.

For purposes of this Agreement, and not to be construed as an admission by any party, but subject to the conditions and limitations set forth below, CMP and the Department hereby agree and stipulate as follows:

1. CMP is record owner of two parcels of property located on Eastern Avenue, so-called (State Route 17) in Augusta, Kennebec County, Maine. Said parcels are more particularly described in the attached Declaration of Restrictive Covenant. A portion of the aforesaid parcels has been designated by the Department as an uncontrolled hazardous substance site pursuant to 38 M.R.S.A. §§ 1364 and 1365 due to the presence in the soils on the Site and the groundwater under the Site of PCBs, polyaromatic hydrocarbons (PAHs), and lead, all of which are hazardous substances under Maine and Federal law. This same portion has been listed on the National Priorities List as a "Superfund Site" by the United States Environmental Protection Agency ("EPA"). The designated portion shall hereinafter be referred to as the "Site".
2. As a generator of the lead, PCBs and PAHs who arranged to dispose of these hazardous substances at the Site, CMP has been identified as one of the parties liable to remediate the Site by both the Department and EPA.
3. The Site is being cleaned up under a Consent Decree agreed to by CMP and EPA on November 23, 1990, which was entered by the United States District Court for the District of Maine on September 3, 1991, at United States, et al. v. Central Maine Power Company, Civil Action No. 92-0302-B. Pursuant to this Consent Decree, CMP will remediate the contaminated soils and surface water on the Site and contaminated groundwater under the Site using methods approved by the EPA, after opportunity for review and comment by the Department. The treatment technologies and cleanup levels for lead, PCBs and cPAHs at the Site are set forth in the Record of Decision ("ROD") issued by EPA. EPA proposes to adjust certain cleanup levels in a document identified as the Explanation of Significant Difference (ESD).
4. The ROD states that on-site soils will be treated using solvent extraction so as to reduce the level of PCBs and cPAHs to one part per million (ppm).
5. While it is feasible to reach this cleanup level for PCBs in the less contaminated soils on site, information which came to light after the ROD was initially

approved indicates that it will neither be technically feasible nor cost effective to achieve the one ppm cleanup level using the specified solvent extraction method for the more contaminated soils. In addition, EPA has determined that levels of 10 ppm of total PCBs and 10 ppm of total cPAHs falls within the risk range which is protective of human health. For these reasons, the soil cleanup levels set forth in the ROD will be adjusted by EPA by use of the ESD, such that the soil treatment method set forth in the ROD will be used only on soils with contaminant levels greater than 10 ppm and will terminate when the residual levels of the PCBs and cPAHs are lowered to 10 ppm. In order to protect the environment, however, on-site soils containing levels of total PCBs and total cPAHs of between 1 ppm and 10 ppm will be covered with clean soil from off site sources, to the thickness of 12 inches as specified in the ESD. The Department agrees that a soil cover 12 inches or greater meets the Department's risk criteria of 10<sup>-5</sup> provided that the cover is maintained.

6. Pursuant to the Consent Decree, following Site inspection and submission of a written report signed by the CMP's Project Coordinator, and a registered professional engineer, certifying that all remedial activities have been completed in full satisfaction of the requirements of the Consent Decree, and EPA's agreement with this finding, EPA will certify completion of the remedial work.

7. Natural resources of the State of Maine, including the groundwater under the Site, have been damaged by contamination at the Site.

8. Under both Section 107 of CERCLA, 42 U.S.C. § 9607, and Maine's Uncontrolled Sites Law, 38 M.R.S.A. § 1367 (1989), the State of Maine has a cause of action against CMP for damages for injury to, destruction of or loss of natural resources of the State.

9. Use of the groundwater beneath the Site prior to the completion of remediation activities could pose risks to the public health and imperil the timely remediation of the Site. Likewise, other on-site activities could disrupt remedial or monitoring measures installed pursuant to the Consent Decree or imperil the ongoing adequacy of the remediation implemented under the Consent Decree, including, without limitation, the clean soil cap described above. In order to avoid the possibility of any such interferences, it is necessary for CMP to file a Declaration of Restrictive Covenant in the form attached hereto as Exhibit A.

**NOW, THEREFORE,**

A. The effective date of this Agreement shall be the date upon which EPA issues the ESD.

B. Within thirty (30) days of the effective date of this Agreement, CMP shall pay the sum of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) in full

compensation for the natural resource damages described above. Payment shall be made by a check made payable to the "Maine DEP Uncontrolled Hazardous Substance Fund." This check shall be delivered within the time specified to the Director, Division of Site Investigation and Remediation, Bureau of Hazardous Materials and Solid Waste Control, State House Station #17, Augusta, Maine 04333.

C. Within thirty (30) days of the effective date of this Agreement, CMP shall date, execute and deliver to the Department for its acknowledgement, a Declaration of Restrictive Covenant in the form attached hereto as Exhibit A. The Department shall acknowledge and execute the Declaration and hold the Declaration in escrow until the "completion of the remedial action" by CMP as that phase is defined and used in the above-referenced Consent Decree. The Department shall then file the executed Declaration in the Kennebec County Registry of Deeds.

In consideration of CMP's full and timely compliance with the terms of this Agreement, and in consideration of CMP's full and timely compliance with all terms and provisions of the Consent Decree it entered with the United States Environmental Protection Agency, as described above, the Department releases and discharges CMP, its principals, successors, assigns, parent corporations, subsidiaries, affiliates, agents, servant employees, attorneys and directors from all actions, suits, causes of action, claims and demands whatsoever which the Department now has, or, but for the execution of this Agreement, could or might have, against CMP, by reason of or in respect to the contamination of the Site described in and addressed by the Consent Decree.

CMP releases the Department and the State of Maine from any and all actions, suits, causes of action, claims or demands whatsoever which it might have, or but for the execution of this Agreement, could or might have had, against the Department and the State of Maine by reason or in respect to the contamination of the Site described in and addressed by the Consent Decree.

This Release shall become final and effective upon full payment of the amount stated in paragraph A above, the filing of the Declaration of Restrictive Covenant provided in paragraph B above and CMP's full and timely compliance with the Consent Decree, including, without limitation, EPA's issuance of all certificates of completion called for by the Consent Decree.

This Release does not apply to any person or entity not a signatory hereto and does not apply to any conditions other than those described above.

By entering this Agreement, the Department does not waive and specifically reserves all of its authority to address any conditions other than those described above which may be discovered at the Site and may require additional work.

DECLARATION OF RESTRICTIVE COVENANT

THE STATE OF MAINE                    )  
  )  
COUNTY OF KENNEBEC                )        KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, Central Maine Power Company, a Maine corporation ("CMP"), is record owner of two parcels of property located on Eastern Avenue, so-called (State Route 17) in Augusta, Kennebec County, Maine. Parcel #1 is described in a Deed from William R. O'Connor to the F. O'Connor Company, dated April 1, 1977 and recorded in the Kennebec County Registry of Deeds in Book 1987, Page 44. Parcel #2 is described in a Deed from Carroll E. Theriault and Mary J. Theriault to Robert L. Hussey and Jean C. Hussey, dated August 31, 1973 and recorded in the Kennebec County Registry of Deeds in Book 1670, Page 165; and

WHEREAS, a portion of the aforesaid parcels has been designated as an Uncontrolled Hazardous Substance Site pursuant to 38 M.R.S.A. §§1364 and 1365 by the Maine Department of Environmental Protection ("DEP") and has been listed on the National Priorities List as a "Superfund Site" by the United States Environmental Protection Agency ("EPA") and is subject to remediation pursuant to a Consent Decree entered between CMP and EPA; and

WHEREAS, an Agreement, Release and Stipulation entered into by CMP and DEP requires CMP to file a Declaration of Restrictive Covenant in the Kennebec County Registry of Deeds in order to ensure the integrity of certain remedial measures;

NOW, THEREFORE, the parties hereto agree that the following covenant shall run with the land and be binding upon CMP and its successors and assigns, and shall apply to the portion of the CMP parcels described in Attachment A, which is attached hereto and made a part hereof, and which affected portion shall hereinafter be referred to as the "Property" and shall be effective upon the "completion of the remedial action" by CMP as that phrase is defined and used in the above-referenced Consent Decree:

1. Any use of the groundwater beneath the Property shall be prohibited without the prior written approval of the DEP.
2. Any activity which might disrupt remedial or monitoring measures installed pursuant to the Consent Decree shall be prohibited without the prior written approval of the DEP.
3. CMP or subsequent owner shall maintain the Property in a condition adequate to ensure the continued compliance with all applicable cleanup standards prescribed in, and to ensure the ongoing adequacy of the

remediation implemented under the Consent Decree. By way of example, and not by way of limitation, CMP or subsequent owner shall maintain all drainage ways, berms, monitoring wells, permeable or impervious caps or covers (including paved portions of the property and areas covered by topsoil or other clean fill), piping, pumps and electrical equipment constructed or installed under the Consent Decree.

- 4. The parties hereto agree that the restrictive covenant herein shall be perpetually binding upon the Property, however, if conditions on the Property change, CMP or any subsequent owner of the Property may petition DEP for consent to the removal of the restriction on the Property created hereby and the termination of this Declaration of Restrictive Covenant.
- 5. The restriction contained herein shall only inure to the benefit of and shall only be enforceable by DEP. No owner of any property or other third party shall benefit from the restriction contained herein or have any right or standing to enforce same.
- 6. By its execution hereof, DEP acknowledges and agrees that it has reviewed and approved of the matters contained herein and that this Declaration of Restrictive Covenant, upon being filed in the Kennebec County Registry of Deeds, will satisfy the applicable provisions of the Agreement, Release and Stipulation it has entered with CMP regarding the Property.

IN WITNESS WHEREOF, the parties hereto have executed this Declaration of Restrictive Covenant as of the \_\_\_\_\_ day of \_\_\_\_\_, 1994.

CENTRAL MAINE POWER COMPANY

By: \_\_\_\_\_  
Name:  
Title:

STATE OF MAINE  
KENNEBEC, ss.

Personally appeared before me this \_\_\_\_\_ day of April, 1994, the above-named \_\_\_\_\_ and made oath that the foregoing is true and correct and based upon his/her personal knowledge.

\_\_\_\_\_  
NOTARY PUBLIC

ACKNOWLEDGED AND AGREED TO:

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

By: \_\_\_\_\_  
Name:  
Title:

STATE OF MAINE  
KENNEBEC, ss.

Personally appeared before me this \_\_\_\_\_ day of April, 1994, the above-named  
and made oath that the foregoing is true and correct  
and based upon his/her personal knowledge.

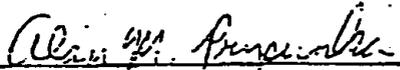
\_\_\_\_\_  
NOTARY PUBLIC

In addition, this is without prejudice to the Department's right with respect to all matters not described above, including but not limited to, the following:

- (1) Claims based on a failure by CMP to meet a requirement of this Agreement;
- (2) State law claims arising from a failure by CMP to meet a requirement of the Consent Decree;
- (3) Liability for any future uncompensated response costs which the Department may incur with regard to the Site. It is not presently contemplated that there will be any such response costs, it being contemplated that the United States Environmental Protection Agency's annual operations grant to the State of Maine shall cover all State oversight costs incurred at the Site prior to the issuance of certificates of completion by the EPA under the Consent Decree.

Notwithstanding any other provision of this Agreement, Release and Stipulation, the Department retains all authority and reserves all rights to take any and all response actions authorized by law and to seek reimbursements from CMP of costs incurred by the State in taking such response actions.

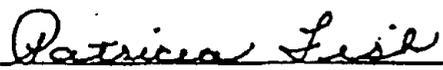
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

  
ALAN M. PRYSUNKA  
Director, Bureau of Hazardous  
Materials & Solid Waste Control

DATED: 6/21/94

STATE OF MAINE  
KENNEBEC, ss.

Personally appeared before me this *21<sup>st</sup>* day of June, 1994 the above-named Alan M. Prysunka, and made oath that the foregoing is true and correct and based upon his personal knowledge.

  
NOTARY PUBLIC

CENTRAL MAINE POWER COMPANY

Gerald C. Poulin  
Gerald C. Poulin  
Vice President, Generation and  
Technical Support

DATED: June 8, 1994

STATE OF MAINE  
KENNEBEC, ss.

Personally appeared before me this 8<sup>th</sup> day of April, 1994 the above-named  
Gerald C. Poulin, and made oath that the foregoing is true and correct  
and based upon his personal knowledge.

Karla E. Swasey  
NOTARY PUBLIC

KARLA E. SWASEY  
Notary Public, Maine  
My Commission Expires April 1, 2001

ATTACHMENT 2

DEED DESCRIPTION

The following described parcel, situated on the Northeasterly side of State Route 17, locally known as Eastern Avenue, in the City of Augusta, Kennebec County, particularly bounded and described as follows:

Beginning at a 1" iron pipe found at an angle point in the Northeasterly sideline of Eastern Avenue (Bk 4089-p. 269), as shown on a plan entitled, "Standard Boundary Survey for Central Maine Power Company, F. O'Connor Superfund Site" by Coffin Engineering, Revision dated March 22, 1994. Said point of beginning is also situated S 47°24'45" E of and 52.78 feet from a 3/4" iron pipe found at the most Southerly corner of Henry R. & Lillian W. Cox (Bk 1554-p. 126).

Thence N 47°42'03" E a distance of 623.68 feet to a 5/8" rebar set in a stone wall in the Southwesterly line of Lionel J. & Raymond A. Rodrigue (Bk 2857-p.34). Said rebar is also situated S 60°26'23" E of and 251.05 feet from a 5/8" rebar set in a drill hole at the most Easterly corner of Donald S. Rodrigue (Bk 4164-p. 336).

Thence Southeasterly along the Southwesterly line of Ridrigue, and partially following said stone wall, to a 5/8" rebar set at the Northwesterly sideline of a 100 foot wide transmission line corridor designated Section #19 (Bk 1117-p. 314). The tie line between the two last mentioned rebars is S 60°46'07" E and 1,354.72 feet.

Thence S 35°12'18" W along the Northwesterly line of said transmission corridor, a distance of 386.82 feet to a 5/8" rebar set.

Thence S 79°45'02" W along the Northerly line of said transmission corridor, a distance of 824.70 feet to a 5/8" rebar set in the Northeasterly sideline of Eastern Avenue.

Thence N 40°50'03" W along the Northeasterly side of Eastern Avenue, a distance of 822.31 feet to a 5/8" rebar set at the most Southerly corner of land conveyed from Jean E. & Robert L. Hussey to Central Maine Power Company (Bk 3507-p. 195).

Thence continuing N 40°50'03" along the Northeasterly side of Eastern Avenue, a distance of 109.00 feet back to the point of beginning.

Meaning and intending to describe 23.36 acres of land, as shown on a plan entitled, "Standard Boundary Survey for

Central Maine Power Company F. O'Connor Superfund Site" by Coffin Engineering & Surveying, revision dated March 22, 1994.

All directions are Magnetic 1987, based on a survey entitled, "Proposed Sale to Augusta Water District" by Coffin Engineering & Surveying, dated November 9, 1987.

Reserving an easement granted to the State of Maine, recorded in the Kennebec County Registry of Deeds in Book 3343-p. 221.

Excepting the old Field burial ground which contains about one eighth of an acre.

The herein described parcel is a portion of land conveyed from F. O'Connor Co. to Central Maine Power Co., recorded in the Kennebec County Registry of Deeds in Book 4089-p. 269, and also a portion of land conveyed from Jean E. & Robert L. Hussey to said CMPCo., recorded in Book 3507-p. 195.

**APPENDIX F**

**MEDEP COMMENTS, DATED AUGUST 9, 2002, ON THE DRAFT FIVE-YEAR REVIEW  
REPORT**



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ANGUS S. KING, JR.  
GOVERNOR

MARTHA KIRKPATRICK  
COMMISSIONER

August 9, 2002

Terry Connelly  
US Environmental Protection Agency  
ME/VT/CT Superfund Section USEPA  
1 Congress Street  
Suite 1100 HBT  
Boston, MA 02114

RE: Draft Five Year Review Report  
O'Conner Junkyard Superfund Site  
Augusta, Maine

Dear Terry,

The Maine Department of Environmental Protection (MEDEP) has now completed its review of the document entitled **DRAFT Five Year Review Report (Report)** for the O'Conner Company Site (O'Conner Junkyard Site, or Site), dated July 2002 as prepared by Tetra Tech NUS, Inc. for the Environmental Protection Agency (USEPA). MEDEP offers the following comments on this Report.

**Executive Summary:**

1. Section 1 should contain a brief summary of the selected remedy, with emphasis on the components of the remedy that involved leaving hazardous substances behind and subsequent need for a 5 year review. As written it appears premature to read about the soil cover and the Designated Area (in Section 3.1) before any discussion of site operations, responses, or remedies are presented.
2. Page E-1, Paragraph 2 and Paragraph 3: Here and throughout the Report mention is made of institutional controls protecting the public health by preventing exposure to groundwater, etc. This is incorrect. The Restrictive Covenant is currently held in by MEDEP in escrow – it has not been implemented, nor was it intended to be until the remedy was deemed complete by both MEDEP and USEPA.
3. Page E-2, First Bullet and page E-4, First Paragraph: That exposure pathways are being controlled may be a bit misleading in that the restrictive covenants are

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688  
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 SEAWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
(207) 764-0477 FAX: (207) 764-1507

not implemented yet and as of this writing CMP has no plan in place to maintain the cover over the Designated Area.

## Report

1. Page 1-2 states that the triggering actions for this 5 year review are the August 1996 SCRA and the October 1994 actions for OU-2 and OU-3. Therefore, technically, the 5 year review is overdue. Some explanation for this is needed for the public record – at the very least an acknowledgement of this situation is warranted.
2. Page 2-1, Table 2-1: The chronology presented in Section 2 should include the agreement between DEP and CMP since this agreement established the restrictive covenant and its enforceability that, once implemented, will provide a measure of control over the exposure pathways that the Report keeps referring to as already being in place.
3. Page 3-1, Section 3.1.1: MEDEP does not understand the significance of identifying the “small residence” that abuts the Site along the western boundary. The important thing is that land use on the western side is presently residential. The actual size of that particular residence is irrelevant.
4. Page Section 3.1.3, 4<sup>th</sup> sentence: There is a grammatical error – replace the word “was” with the word “were:” (i.e. Approximately 24,000 cubic yards...were imported....”
5. Page 3-3, Section 3.1.3, Paragraph 2: The Report mentions TWA I and III without any prior definition or reference to what the acronyms mean. This makes it difficult for the reader.
6. Page 3-3, Section 3.2: The text states that the site is not actively used. Does this refer to CMP business activities, children playing on site, recreation vehicles, or other site visitors? Please explain what this means.
7. Table 3-1: Please explain further the apparent changes in cleanup levels; in particular the change for PCBs in Riggs Brook sediments from 1 ppm to 5 ppm. MEDEP is not aware of this value having undergone the official process for change from the 1 ppm as originally established in the ROD. When was this changed proposed for public comment? To MEDEP’s knowledge neither regulatory agency officially approved of such a change. Rather, the official, enforceable cleanup level is still 1 ppm while 5 ppm is considered a sort of unofficial trigger level for remedial action.
8. Page 4-3, Section 4.2.1, First Paragraph: The text states that “Institutional controls limiting access to the Site were included in the form of a perimeter Site fence.” At the time of the ROD, the regulatory agencies incorrectly referred to fences as institutional controls. Please update the text.
9. Figure 4-1: The document would benefit from a clearer site sketch than Figure 4-1. Since the TWA II area is so significant it should be clearly depicted. Also,

the first 4 symbols identifying the various types of monitoring wells/locations are identical. A color version of this figure where the first 4 symbols are differentiated by hue would be more helpful, or if the figure is to remain black and white then contrasting symbols are necessary.

10. Page 4-5, Section 4.2.2: The text mentions the establishment of institutional controls, but fails to explain or specify what they are. Please add a summary.
11. Page 4-6, Section 4.2.3, First Paragraph: The text again incorrectly refers to a 5 ppm cleanup level for PCBs in Riggs Brook sediments. See comment #7 and correct the text here and elsewhere in the Report.
12. Page 6-3, Section 6.4.2, Third Paragraph: The text incorrectly states that monitoring well 106B captures a significant portion of the bedrock groundwater migrating from the site. This is not supported by any data, or even basic hydrogeological principles. Well 106B only "sees" groundwater flowing through its screen – it in no way actively captures adjacent groundwater. A pressure gradient would have to be introduced through the well for it to do what is alleged here. Delete the entire second sentence.
13. Page 6-4, Section 6.4.3, Results Box: Sediment cleanup level for PCB is not 5 ppm – it is 1 ppm. See comment #7.
14. Page 6-5, Section 6.5, First Paragraph: The text incorrectly refers to fences and well locks are institutional controls, which they are not. Further, it claims well locks were not necessary once the vegetated cap was installed. Please explain how the cover negates the need for securing a monitoring well. In the interim, all wells should be secured with locks, especially considering the following: The site is intentionally not secured - in fact the removal of the fence was made into a media event with regulatory and CMP dignitaries present – so it is misleading to report that trespassing was not observed.
15. Page 6-5, Section 6.5, Third Paragraph: A residence was recently built adjacent to the site on the east side across Riggs Brook. Others may be forthcoming. Therefore, claims that no development of the surrounding area are underway are misleading. Also, the institutional controls are once again mentioned in the text without any explanation as to what they actually are.
16. Page 7-1, Section 7.1.1: The text declares that the 12 inches of fill would be protective even if the designated area was churned up and the clean soil and PCB contaminated soil were mixed (page 4-5, First Paragraph). However, the text in this section then refers to inspections of the cap to check for erosion and placing boundary markers to identify the edges of the Designated Area. This is confusing – the report should clarify what EPA's remedy is with respect to the Designated Area. Further, it is impossible to verify the integrity of the soil cover in the absence of a marker liner placed underneath without sampling. Lastly, there is no mention of MEDEP's independent agreement, independent authority, and enforceable requirement for maintaining the 12 inches of clean fill over the Designated Area.

17. Page 7-2, Section 7.1.1, Third Paragraph: There is a fourth opportunity for optimization not listed here. It is the collection of randomly placed soil samples to verify the soil cover is indeed being maintained.
18. Page 7-2, Section 7.1.1, Fifth Paragraph: MEDEP disagrees with the conclusion that the restrictive covenant has prevented exposure to contaminated groundwater. The restrictive covenant is not protective until it is filed at the Registry of Deeds and becomes legally enforceable.
19. Page 7-3, Section 7.1.2, First Paragraph: Although MEDEP agrees that the movement of oil is limited, the text could phrase a bit more clearly what at first seems to be a contradiction between sequential sentences – little movement has been observed while 85 gallons have been recovered.
20. Page 7-4, Section 7.1.3: The document concludes that OU-3 is protective but fails to substantiate this conclusion. It ignores the 1 ppm cleanup level completely while acknowledging that even the 5 ppm trigger level has been exceeded. The 2 ppm cleanup level for biota is protective of human health, not ecological health. There have been no rigorous studies of the ecology of Riggs Brook. It is not clear what is meant by the statement that the brook does not appear to be impacted. EPA has received letters and comments from the US Fish and Wildlife Service that take exception to the PCB cleanup levels as not being protective enough.
21. Page 7-5, Section 7.1.3, Fifth Paragraph: The restrictive covenant says nothing about the brook fish, sediment, or surface water. Please describe the link between the institutional controls for OU-1 and OU-3, and explain how the institutional controls apply to OU-3?
22. Page 7-9, Section 7.2.3: Since the time was ROD was finalized in 1989, much has been learned about sediment removal and stream bed restoration. MEDEP disagrees with the blanket statement that irreversible damage would be caused by sediment excavation. Also, Appendix G seems to be missing from this Report.
23. Page 7-10, Section 7.2.3: The text discusses changes in risk assessment methods but seems to focus only on human health risk assessment methods. MEDEP believes a lot of progress has been made recently in assessing ecological risk, as evidenced by all of the newer screening and cleanup levels for PCBs cited (but not included) in Appendix G.
24. Page 7-11, Section 7.3.3: The level of effort to characterize the ecological risk is considered screening level only. MEDEP disagrees with the absolute statement that ecological risks have been adequately addressed.
25. Page 8-1, Section 8.0, Second Paragraph: This is a somewhat misleading statement given the exceedances of Riggs Brook sediment cleanup levels admitted elsewhere in the text.
26. Page 10-1, Section 10.0, Third Paragraph: Please explain how exposure pathways that could result in unacceptable risks are being controlled for OU-3.

The primary concern at OU-3 is ecological risk. It is not clear how risks to eco receptors are being controlled.

If you have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in cursive script that reads "Wilkes Harper".

Wilkes Harper  
Division of Remediation  
Bureau of Remediation and Waste Management