

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

FRIENDS OF MERRYMEETING BAY,)	
et al.,)	
)	
Plaintiffs,)	
)	Docket no. 1:11-cv-35-GZS
v.)	
)	
BROOKFIELD POWER US ASSET)	
MANAGEMENT, LLC, et al.,)	
)	
Defendants.)	

ORDER & REPORT OF CONFERENCE

In accordance with the Court’s prior Order (ECF No. 152), the Court held a conference of counsel on September 5, 2014 to determine the procedural course for this case in light of the remand from the First Circuit on July 14, 2014. Attorneys Bruce Merrill, David Nicholas, Joshua Kratka and Heather Govern appeared for Plaintiffs. Attorneys George Dilworth, Matthew Morrison and David Bono appeared for Plaintiffs. The parties requested that they be permitted to file additional motions for summary judgment following the remand. Following the conference, the Court hereby ORDERS that the following procedure be followed:

The parties indicated a desire to consolidate this case, Friends of Merrymeeting Bay v. Brookfield Power US Asset Management, LLC, 1:11-cv-35-GZS with Friends of Merrymeeting Bay v. NextEra Energy Resources, LLC, 2:11-cv-38-GZS. The parties shall file the discussed motion to consolidate by **September 15, 2014**.

Defendants requested that the Court permit the parties to engage in limited discovery and to reopen the record for summary judgment. Plaintiffs opposed Defendants’ requests. Based on the record currently before the Court and having considered counsels’ representations at the Conference, the Court is not inclined to permit any discovery or to reopen the record. Therefore, any supplemental briefing or supplemental statements of material fact shall be based on the following: The record is limited to the documents and evidence submitted on the docket in support of or in opposition to the previous motions for summary judgment. The parties are prohibited from

citing to any document or evidence that was not so submitted and filed on the docket by the conclusion of summary judgment briefing on July 20, 2012.

On or before **September 29, 2014**, the parties shall file any supplemental memoranda addressing the issues raised by the First Circuit, which shall not exceed twenty (20) pages each.

On or before **October 20, 2014**, the parties shall file any responses to the memoranda, which shall not exceed twenty (20) pages.

On or before **November 3, 2014**, the parties shall file any replies, which shall not exceed seven (7) pages.

The Court also expects that the parties' supplemental filings will comply with all aspects of Local Rule 56. Each side shall may file a supplemental statement of material fact citing to the record as outlined above. Should any party need to file more than fifty (50) statements of material fact, that party shall request leave of the Court to do so. The parties are reminded that Local Rule 56(f) requires specific record citations for all statements of material fact. Absent a specific citation, the Court has no duty to consider any part of the record submitted. To the extent any party will rely on a portion of the previously submitted joint record for a specific citation, the Court encourages the parties to use the "PageID #" generated by CM/ECF, particularly if the alternative pin citation may not be readily apparent to the Court. The parties need not refile any document that is already on the docket.

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 8th day of September, 2014.