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FOR IMMEDIATE RELEASE 4-11-22

Friends of Merrymeeting Bay Petitions US Supreme Court in CMP Nuisance Case

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More Information: See Backgrounder document. Petition link: [Here](#) or:

<http://cybrary.fomb.org/pages/FOMB%20SCOTUS%20Cert%20Petition%20and%20Appendix-Combined%20Final%204-8-22.pdf>

Richmond, Maine 4/11/22: On Friday, Friends of Merrymeeting Bay (FOMB) and three individuals filed a petition for writ of certiorari (cert) with the U.S. Supreme Court (SCOTUS) in a nuisance case brought by the group against Central Maine Power (CMP). The original claims revolve around pollution from tower lighting and associated radiofrequency radiation (RFR) emissions, both of which the group maintains are harmful to people and the environment and entirely discretionary on the part of CMP.

Justice Michaela Murphy in Maine Business and Consumer Court agreed with CMP's motion to dismiss; that FOMB claims were subject to federal preemption by the FAA and FCC. FOMB and several co-plaintiffs disagreed because FAA obstruction lighting guidelines are advisory only and appealed to the Maine Law Court which affirmed Murphy's ruling.

Central to the SCOTUS petition is whether issuance of a non-binding "No Hazard Determination" by the FAA preempts the application of state law, despite the Determination's text stating it "does not relieve" an entity from compliance with state law. Petitioners contend the Maine court decisions harm the cooperative federalism structure of the Federal Aviation Act and now give any federal agency the power to preempt state and local laws using only an agency advisory document.

"This is essentially a local control issue" said FOMB Chair, Ed Friedman. "The Tenth Amendment to the constitution states specific powers not expressly delegated to the federal government or prohibited to the states, are left to the states and by extension, the people. What makes this so crazy is that two Maine Courts have, despite statutory and regulatory language to the contrary, unnecessarily (and unsolicited by the FAA), relinquished fundamental rights inherent to Maine and Mainers, to the feds. The implications here reach far beyond the directly affected wildlife and residents of Merrymeeting Bay," he added.

Friends of Merrymeeting Bay and the individual co-petitioners are represented by Most & Associates (<https://mostandassociates.com/>) in New Orleans and Law Offices of Bruce M. Merrill in Portland.

Friends of Merrymeeting Bay is a non-profit organization dedicated to preserving through research, advocacy, land conservation and education the ecological, aesthetic, historical, recreational and commercial values of Maine's Merrymeeting Bay and its watershed, which includes the Kennebec and Androscoggin Rivers.