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# Frustrated by Bath, Woolwich towers, environmental group looks to US Supreme Court for relief

Friends of Merrymeeting Bay appealed to the U.S. Supreme Court on Friday after two Maine Courts rejected their nuisance complaint. The group objects to flashing lights on two electrical towers near the Chops Passage, which it says are unnecessary.



By [John Terhune](#) Times Record

After two Maine courts dismissed a local environmental group's [nuisance complaint against Central Maine Power](#), plaintiffs moved Friday to bring their case to the U.S. Supreme Court, according to a press release from the organization.

Along with three individuals, Richmond-based nonprofit Friends of Merrymeeting Bay filed a petition for a writ of certiorari, the first step in appealing a case to the Supreme Court. [According to the organization's Chairman Ed Friedman](#), the request is a last resort for Friends of Merrymeeting Bay.

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“Really, this is our only next legal step that we could take,” Friedman said. “Our attorney has handled a lot of cases over the years, and he did mention this was probably the first one he has encountered that he thought had good potential for being a question worthy of US Supreme Court.”

Questions about federalism and the power of administrative agencies sit at the case's center, according to William Most, who represents Friends of Merrymeeting Bay.

Friedman and his group object to flashing lights and a radar system that Central Maine Power installed on two electrical towers in Bath and Woolwich near the Chops Passage around 2018. When activated, the system's 10 lights [*each*] flash 60 times per minute, which creates a “strobe-like effect” visible over an area of nearly 4,000 square miles, according to court documents.

Local zoning codes prevent flashing lights, but Maine courts have twice ruled against Friends of Merrymeeting Bay since they first brought suit in July 2020. Both the Maine Business Consumer Court and the Maine Supreme Court found the local zoning codes were preempted by non-binding guidance from the Federal Aviation Administration recommending the installation of a lighting system to alert aircraft to the towers.

Plaintiffs argue allowing even non-binding recommendations from federal agencies to trump state law could sap power from state and local governments.

“If the reasoning of the Maine courts’ rulings is extended to other areas, it could impact the state’s ability to regulate broad swathes of activity, such as food safety, traffic enforcement, and recreational fishing,” said Most, who is based in New Orleans. “That is because federal agencies make recommendations about all those topics, and under the logic of the courts’ decisions, that could prevent the state from being involved.”

A spokesperson for Central Maine Power declined to comment on the ongoing litigation but argued the light system is required by the FAA.

While Friends of Merrymeeting Bay’s petition for a writ of certiorari could move the Woolwich dispute to Washington, fierce competition for the attention of the Supreme Court makes that result unlikely, according to according to Dmitry Bam, Provost and Professor at the University of Maine School of Law.

The Court receives a large number (I believe around 10,000 these days) of petitions every year,” Bam wrote in an email. [*Actually 7-800*] “The Court only hears about 70 cases a year. The odds of the petition being granted are extremely small.”

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