TO:          Commission Members  
FROM:       Frederick W. Todd, Project Planner  
DATE:       March 30, 2011  
SUBJECT:    Request for Public Hearing and Requests for Intervenor Status  
            Champlain Wind, LLC ’Bowers Wind Project’  
            Development Permit DP 4889; Carroll Plt (Penobscot) and Kossuth Twp (Washington)  

Project Proposal

On March 14, 2011 staff accepted as complete for processing an application for Development Permit DP 4889, submitted by Champlain Wind, LLC (a subsidiary of First Wind Energy, LLC) for a 69.1 megawatt (MW) wind energy facility to be located on Bowers Mountain, an unnamed ridge to the south (referred to as “South Peak” throughout the application) in Carroll Plantation and Dill Hill in Kossuth Township. The entire proposed project is located within the area designated for expedited permitting.

The proposed $136 million development project consists of up to 10 Siemens 3.0 MW turbines and up to 17 Siemens 2.3 MW turbines. The project would also include: access to the turbines utilizing new and existing roads; 34.5 kilovolt (kV) collector lines connecting the turbines; an “express collector” line for 5.2 miles to connect to a new substation adjacent to Line 56 -- an existing 115kV transmission line; an operations and maintenance building; and up to four permanent meteorological towers.

Background

Upon acceptance of the development application on March 14, 2001, notice was provided to all parties having expressed an interest in the project and notice was provided to abutters and published by the applicant in the Lincoln Times and Bangor Daily News. The notice stated that requests for a public hearing and for intervenor status for this proposal must be submitted to LURC by 5:00 P.M. on March 28, 2011.

Requests for Public Hearing

Staff received 73 requests for a public hearing. The following is a summary listing of these requests. Attachment A to this memo contains a list of those individuals or entities requesting a public hearing.
Summary of Requests for Public Hearing

The requests for public hearing included concerns regarding tourism impacts, visual impact, noise, public safety setback and the potential for adverse effects on property values. Permitting criteria generally require LURC to consider, among other things, whether a project will have an undue or unreasonable adverse effect on scenic character, existing uses, and natural resources, and therefore the record will likely contain substantial information on the concerns raised in the public hearing requests. As described above, the individuals and groups identified herein are seeking a public forum in which to be heard on these matters.

Review Criteria for a Public Hearing

Chapter 4 of the Commission’s rules, Section 4.04(5) (a) and (b)
“(5) When to Hold a Public Hearing:
(a) As provided by these rules, interested persons may prepare and submit evidence and argument to the agency and request a hearing on an application.
(b) The Commission shall consider all requests for a hearing submitted in a timely manner. Hearings on an application are at the discretion of the Commission unless otherwise required by the Constitution of Maine or statute. In determining whether a hearing is advisable, the Commission shall consider the degree of public interest and the likelihood that information presented at the hearing will be of assistance to the Commission in reaching its decision.” (emphasis added)

Staff Recommendation on a Public Hearing

The LURC staff recommends a public hearing be held based on the level of the public response and the scope of the proposed wind energy development described in the Bowers Wind Project application. Seventy-three individuals and groups, representing a variety of interests, have requested a public hearing on this application. A public hearing will assure that all concerns that have been raised will be heard. We are considering the week of June 20, 2011, as possible date(s) for a public hearing. We are also planning on a pre-hearing conference for Thursday, May 5, 2011, at our office in Augusta.

Request for Intervenor Status

Staff received 2 requests for Intervenor Status. The following is a listing of the requests. Attachment B to this memo contains the individual supporting correspondence of e-mails and letters.

Requests for Intervenor Status
1. Sean Mahoney, Vice President and Director, Conservation Law Foundation
2. Dylan Voorhees, Clean Energy Director, Natural Resources Council of Maine

Review Criteria for Granting Intervenor Status

Chapter 5 of the Commission’s rules Section 5.13(1) states “Petition for Intervention: … A petition to intervene shall be granted if it demonstrates that the petitioner is or may be substantially and directly affected by the proceeding.”
Staff Recommendation for Intervenor Status

For the reasons stated by NRCM and CLF regarding this project’s potential to substantially and directly affect them (see Attachment B), the staff recommends granting Intervenor Status to both the Conservation Law Foundation and the Natural Resources Council of Maine.

Request for Interested Person Status

Chapter 5 of the Commission’s rules also states “the Commission may further allow any other interested person to intervene as a party or to participate in more limited manner as the Commission or its Presiding Officer may designate. …’

While it is not necessary for the Commission to rule on this status, 8 individuals or entities are requesting to be considered as “interested persons” in this proceeding. According to the Commission’s rules (5.14) “any person may, in the discretion of the Presiding Officer, be permitted to make oral or written statements on the issues, introduce documentary, photographic and real evidence, attend and participate in conferences and submit written or oral questions of other participants, within such limits and on such terms and conditions as may be fixed by the Commission or the Presiding Officer.” As there is no deadline in requesting such status, there may be additional such requests as we progress in this proceeding.

To-date, the individuals or entities requesting such status are:
1. David Corrigan, Fletcher Mountain Outfitters, Concord Twp, ME
2. Steve Norris, The Pines Lodge, Grand Lake Stream
4. David Darrow, Chandler, AZ
5. Pete Borden, Grand Lake Stream, ME
6. Leonard Murphy, Woodville, ME
7. Barbara Moore, Chandler, AZ
8. Gary and Kay Campbell, Hingham, MA

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Attachment A: List of individuals requesting public hearing
Attachment B: Copies of intervenor requests
Attachment A

Individuals or Entities Requesting a Public Hearing
Concerning DP 4889
Bowers Wind Project
March 28, 2011

Dale Wheaton, Wheaton’s Lodge, Forest City, ME
Donna Crosby, Springfield, ME
Vincent Crosby, Springfield, ME
Selectmen of Grand Lake Stream Plantation, ME
Penny Gray, Freeport, ME
David Corrigan, Fletcher Mountain Outfitters, Concord Twp, ME
Greg Perkins, Holden, ME
Nancy O’Tool
Freda Parker, Lakeville, ME
John Gagnon, Lakeville, ME
Robert Gibson, Lakeville, ME
Deborah Buckingham, Skowhegan, ME
Steven Norris, The Pines Lodge, Grand Lake Stream, ME
David Parker, Lakeville, ME
Jennifer Gordon, Prentiss, ME
Walter and Lois Cook, Lakeville, ME
Kay Campbell, Hingham, MA
Robert Pelletier, Vernon, CT
Marc and Cindy Williams, Whiting, NJ
Sara Alexander, Etna, ME
Margaret Carter, Lakeville, ME
Robert and Peggy McDaniel, Hodgdon, ME
Phillip Daw, Mineral Bluff, GA
Tracy Allen, Mineral Bluff, GA
David Darrow, Chandler, AZ
Gary Campbell, Hingham, MA
Layton Day, Corinth, ME
Lorri Day, Corinth, ME
Timothy Dalton, Manhattan, KS
Richard and Donna Washburn, Fremont, NH
Kirsten Burbank, Salem Twp, ME
Lisa Smith
Stephen Smith
Richard and Judith Mathiau, Vassalboro, ME
Daniel Remian, Cushing, ME
Lisa Wilson, Middletown, CT
Gary Stevens, Sanbornville, NH
Alfred Goodwin Jr., Medway, MA
George Stevens, Milton, NH
Martha Marchut, Cushing, ME
Barbara Moore, Chandler, AZ
Jeff Stevens, Brookfield, NH
David Wilson, Middletown, CT
Roberta Stevens, Sanbornville, NH
Marvin Allen, Hallowell, ME
Peggy Bishop, Carrabassett Valley, ME
Paul Liebow, Bucksport, ME
Norman Kalloch, Carrying Place Town Twp, ME
Tom Olds, Brooks, ME
Steve and Diane Neil
Sally McGuire, Carthage, ME
Rose and Jarrett Staton
Margaret Murillo
Kay Michka, Lexington Twp, ME
Karen Pease, Lexington Twp, ME
John Rohrer, York and Carrabassett Valley, ME
Elise Glinsky
Gabrielle Wellman, Blue Hill, ME
Ed Buzzell, Detroit, ME
Bjarni Brown, Exeter, NH
Alan Michka, Lexington, ME
Al Wegener, New Paltz, NY
Gregory and Patrice Drummond, Claybrook Mtn Lodge, Highland Plt, ME
Christopher Short, Lexington Twp, ME
Grace Keown, Dixmont, ME
Leonard Murphy
Eric Lane, Durham, ME
Mary Jane Fisher, Naples, FL
Janet Randall, Cambridge, MA
Peter Fisher, Naples, FL
Gary Rouleau, Lakeville, ME
Pat Rouleau, Lakeville, ME
Gary and Tici Conant, Raymond, ME
Attachment B
Individuals or Entities Requesting Intervenor Status
Concerning DP 4889
Bowers Wind Project
March 29, 2011

Sean Mahoney, Conservation Law Foundation
Dylan Voorhees, Natural Resources Council of Maine
Fred – Attached please find a petition to intervene in the above referenced project. Please let me know if you have any questions or problems with receipt. A hard copy of the original petition will be mailed to you. Many thanks Sean

Sean Mahoney  
Vice President and Director  
CLF Maine  
47 Portland Street, Suite 4  
Portland, ME 04101  
P: 207-210-6439 x12  
E: smahoney@clf.org

For a thriving New England
Fred,
Attached is NRCM's petition to intervene in the Bowers mountain wind project. A signed, notarized copy has been sent by mail. Please let me know if you have any questions, and confirm your receipt if and when convenient.

Thank you,

Dylan Voorhees
March 25, 2011

By Mail and E-mail

Fred Todd
Land Use Regulation Commission
22 State House Station
Augusta, ME 04333-0022

Re: Bowers Mountain Wind Project

Dear Mr. Todd,

Enclosed please find the Natural Resources Council of Maine’s Petition to Intervene in the Bowers Mountain Wind Project.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Dylan Voorhees

Enclosures:

Cc: Dave Fowler & Geoff West, First Wind
Champlain Wind, LLC
Development Permit DP 4889
Proposed Bowers Mtn Wind Power Project

) PETITION TO INTERVENE
) OF NATURAL RESOURCES
) COUNCIL OF MAINЕ

Pursuant to Chapter 5, § 5.13 of the Regulations of the Maine Land Use
Regulation Commission ("LURC" or the "Commission"), Natural Resources Council of
Maine ("NRCM") hereby petitions to intervene on the above-captioned Development
Permit, and all related proceedings, as a party.

The grounds for this request are as follows:

1. NRCM is a not-for-profit tax-exempt corporation dedicated to the protection
   of Maine’s environment and the wise use of the state’s natural resources
   through a program of advocacy, legal defense and education. NRCM has a
   membership and support base of more than 10,000 individuals and families.
   NRCM members reside throughout the state of Maine.

2. NRCM has members and supporters from Washington & Penobscot Counties
   and throughout Maine who have a strong interest in renewable energy
   development (including wind power), who are concerned about Maine energy
   policy, and who utilize and enjoy the Downeast region.

3. NRCM has a well-established record of involvement in wind power issues,
   including as Intervenors in LURC’s review of the nearby Stetson project.
   NRCM has monitored the progress of every wind power project in Maine,
   both in LURC jurisdiction and in organized towns. NRCM served on the
   Governor’s Wind Power Task Force and have been actively involved in the
   Legislature and working with agency staff on policies related to wind power
   development. Most recently we provided testimony to LURC on the petition
   by Champlain Wind to add area in Kossuth Township to the expedited wind
   review area—a matter which now continues under this current development
   permit preceding.

4. NRCM provided significant testimony on LURC’s draft Comprehensive Land
   Use Plan (CLUP), particularly those sections that will address issues such as
   energy development, remote resource protection, and balancing development
   and conservation within LURC jurisdiction, and has played an active role in
   shaping Maine’s policies related to the management of public lands.

5. NRCM believes the project may have important impacts on scenic resources
   of statewide significance, including on eight Great Ponds identified according
to statutory criteria, as well as potential benefit through the generation of renewable energy.

6. NRCM will be "substantially and directly affected by the proceeding," given NRCM's and its members' commitment to renewable energy development and the protection and wise use of Maine's North Woods and remote recreation resources.

For the foregoing reasons, NRCM respectfully requests that it be granted full intervenor status in the above-captioned proceeding.

Date: 3/29/11

Natural Resources Council of Maine

By: Dylan Voorhees
Its: Clean Energy Director

State of Maine
County of Kennebec

March 29, 2011

Before me appeared personally the above named Dylan Voorhees, who swore to the truth of the foregoing statements.

Notary Public

LEISA DENNETT
Notary Public, Maine
My Commission Expires November 2, 2014