

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

April 15, 2010

A meeting of the Board of Environmental Protection was held on Thursday, April 15, 2010, at Maple Hill Farms, Hallowell, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff, and Frank Woodard

Absent: Elizabeth Ehrenfeld and Nancy Ziegler

Staff: Jeffrey Crawford, Bureau of Air Quality
Jeff Madore, Bureau of Remediation and Waste Management
William Bullard, Bureau of Land and Water Quality

Others: Andy Fisk, Director Bureau of Land and Water Quality
Peggy Bensinger, Assistant Attorney General
Terry Hanson, BEP Administrative Assistant

(Meeting adjourned at approximately 2:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS:

Bureau Director Andy Fisk reported the following on behalf of Commissioner Littell.

Legislative: The Department met its proposed budget targets and the Committee's vote was unanimous to pass. Mr. Fisk noted that no large scale reorganization of the natural resource agencies is planned at this time; however, some program consolidation will result in additional efficiencies and cost savings.

Bonds: Discussion on bonds focused largely on transportation and the need to identify the scope of the total package related to current authorization. Discussions resulted in a slight reduction in funding for the Land for Maine's Future program, and the elimination of the State Revolving Fund (SRF) proposal for the clean drinking water and wastewater programs. Maine will not be able to secure available federal government funding for the SRF programs in support of drinking water and wastewater initiatives until some time in the future.

QUESTIONS: Board member M. Wing Goodale asked Mr. Fisk about the status of the Decca Bill.

Mr. Fisk noted that staff would need to follow-up on the status of this bill and added that a more detailed update concerning Legislative outcomes would be provided to the Board at the next regular meeting.

B. COMMENTS FROM THE BEP CHAIR: NONE

C. EXECUTIVE ANALYST COMMENTS: None

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING: Reviewed

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS:

The Board voted (6-0-2-2) on a motion to approve consent agenda item 1 as presented.

The vote was taken pursuant to 38 M.R.S. §341-D.

Board members M. Wing Goodale, Richard Gould, Susan M. Lessard, P. Andrews Nixon, Lisa Widoff, and Frank Woodard voted to support the motion. Board members Don Guimond and Matt Scott abstained. Board members Elizabeth Ehrenfeld and Nancy Ziegler were absent.

1. BEP Minutes – January 7, 2010 (approval)

The Board voted (4-0-4-2) on a motion to approve consent agenda item 2 as presented.

The vote was taken pursuant to 38 M.R.S. §341-D.

Board members M. Wing Goodale, Richard Gould, Susan M. Lessard, and P. Andrews Nixon voted to support the motion. Board members Don Guimond, Matt Scott, Lisa Widoff and Frank Woodard abstained. Board members Elizabeth Ehrenfeld and Nancy Ziegler were absent.

2. BEP Minutes – February 18, 2010 (approval)

The Board voted (6-0-2-2) on a motion to approve consent agenda item 3 as presented.

The vote was taken pursuant to 38 M.R.S. §341-D.

Board members M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, and Frank Woodard voted to support the motion. Board members Matt Scott and Lisa Widoff abstained. Board members Elizabeth Ehrenfeld and Nancy Ziegler were absent.

3. BEP Minutes – March 4, 2010 (approval)

The Board voted (8-0-0-2) on a motion to approve consent agenda items 4, 5, 6, 7, and 8 as presented.

The vote was taken pursuant to 38 M.R.S. §341-D(6).

Board members M. Wing Goodale, Richard Gould, Don Guimond, P. Andrews Nixon, Susan M. Lessard, Matt Scott, Lisa Widoff and Frank Woodard voted to support the motion. Board members Elizabeth Ehrenfeld and Nancy Ziegler were absent.

4. TOWN OF FARMINGTON, Farmington - Administrative Consent Agreement (BLWQ - Water)
5. BRYAN EMERY AND KRISTI EMERY, Detroit - Administrative Consent Agreement (BLWQ - Land)
6. TOWN OF BAR HARBOR, Bar Harbor – Administrative Consent Agreement (BLWQ – Water)
7. MCLAUGHLIN'S TIMBER TRUCKING, INC., Orrington – Administrative Consent Agreement (BLWQ – Land)
8. CHAUNCY VIEIRA, Sanford – Administrative Consent Agreement (BLWQ – Land)

II. Regular Agenda

1. CHAPTER 123, CONTROL OF VOLATILE ORGANIC COMPOUNDS FROM PAPER, FILM AND FOIL COATING OPERATIONS / amendment (adoption*)

Staff: Jeff Crawford, Bureau of Air Quality

The Board voted (8-0-0-2) on a motion to adopt amendments to Chapter 123, Control of Volatile Organic Compounds from Paper, Film and Foil Coating Operations rule.

This rule establishes requirements for testing, evaluating and limiting volatile organic compound emissions from paper, film and foil coating operations. The amendments

incorporate additional source categories identified by the U.S. Environmental Protection Agency's Control Technique Guidelines, require the addition of control and work practice requirements for surface coating of film and foil surfaces (tapes, labels, decorative laminates photographic film etc.), updates to the definitions, exemptions, recordkeeping/reporting sections, and compliance deadlines.

The vote was taken pursuant to 38 M.R.S. §341-D(1-B), §585-A and Section 184 of the Clean Air Act.

Board members M. Wing Goodale, Richard Gould, Don Guimond, P. Andrews Nixon, Susan M. Lessard, Matt Scott, Lisa Widoff and Frank Woodard voted to support the motion. Board members Elizabeth Ehrenfeld and Nancy Ziegler were absent.

2. CHAPTER 691, RULES FOR UNDERGROUND OIL STORAGE FACILITIES / repeal (post to 30-day written comment)

Staff: Jeff Madore, Bureau of Remediation and Waste Management

The Board voted (8-0-0-2) on a motion to post to 30-day written public comment proposed repeal of Chapter 691, Rules for Underground Oil Storage Facilities. This rule requires registration of new and existing underground petroleum tanks and establishes standards for siting, installation, operation and closure of all types of underground oil storage facilities. These regulatory provisions are addressed in new Chapter 692, making Chapter 691 duplicative.

The vote was taken pursuant to 38 M.R.S. §341-D(1-B), §1391-1399 and PL 2007, Chapter 569, Section 7.

Board members M. Wing Goodale, Richard Gould, Don Guimond, P. Andrews Nixon, Susan M. Lessard, Matt Scott, Lisa Widoff and Frank Woodard voted to support the motion. Board members Elizabeth Ehrenfeld and Nancy Ziegler were absent.

3. MARION STONE – Natural Resources Protection Act (NRPA) Sand Dune Alteration Department Order L-24089-4H-A-N (denial) (appeal by Marion Stone)

Staff: William Bullard, Bureau of Land and Water Quality

The Board voted (7-1-0-2) on a motion to deny the appeal submitted by Marion Stone, approve the proposed Board Order as presented, and affirm the Department decision (L-24089-4H-A-N Corrected Order) denying construction of a stone revetment seawall in a coastal sand dune in Scarborough.

The vote was taken pursuant to 38 M.R.S. Section 341-D(4), § 344 and § 480- A et seq, 06-096 CMR Chapter 2 Rules Concerning the Processing of Applications and Other Administrative Matters, Chapter 355 Coastal Sand Dune Rules, and Chapter 310 Wetland and Waterbodies Protection Rules.

Board members M. Wing Goodale, Richard Gould, Don Guimond, P. Andrews Nixon, Susan M. Lessard, Matt Scott and Lisa Widoff voted to support the motion. Board member Frank Woodard voted opposed. Board members Elizabeth Ehrenfeld and Nancy Ziegler were absent.

3. CALAIS LNG PROJECT COMPANY LLC – Site Location of Development Act, Natural Resources Protection Act (NRPA), Air Emission and Water Quality applications #L-24843-26-A-N, #L-24843-TG-B-N, #L-24843-IW-C-N, #L-24843-L6-D-N, #L-24843-4P-E-N, #A-1029-71-A-N, and #W-9056-5O-A-N (Petition for Intervenor Status)

Staff: Becky Blais, Bureau of Land and Water Quality

The Board voted (8-0-0-2) on a motion to grant petitions to intervene to the following entities: Conservation Law Foundation, the Sierra Club, Citizens for Clean and Secure Energy, Inc., Downeast LNG, Inc., Industrial Energy Consumer Group, The Maine State Chamber of Commerce, Maine Workers for a Healthier Environment, Inc., Professional Mariners and Waterway Users of Passamaquoddy Bay Region, Save Passamaquoddy Bay US and Nulankeyutomonen Nkihtahkomikumon (We Take Care of Our Land) and the City of Calais.

Pursuant to Chapter 30, Section 5(C) the National Park Service and Roosevelt Campobello International Park Commission will participate as interested government agencies. Lastly, it was noted that the Governor's Office of Energy Independence and Security clarified their wish to participate as an interested person.

The vote was taken pursuant to 38 M.R.S. Section 341-D(2) and 06-096 CMR Chapter 2 Rules Concerning the Processing of Applications and Other Administrative Matters.

Board members M. Wing Goodale, Richard Gould, Don Guimond, P. Andrews Nixon, Susan M. Lessard, Matt Scott, Lisa Widoff and Frank Woodard voted to support the motion. Board members Elizabeth Ehrenfeld and Nancy Ziegler were absent.