STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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GOVERNOR

Susan M. Lessard
Chair
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BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

February 3, 2011

A meeting of the Board of Environmental Protection was held on Thursday, February 3, 2011, at the Civic Center, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 10:00 a.m. with the following individuals present:

Board: Elizabeth Ehrenfeld, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Lissa Widoff, and Frank Woodard

Absent M. Wing Goodale, Richard Gould, Paul Paydos and Matt Scott were absent.

Staff: Michael Karagiannes, Bureau of Air Quality
Dawn Hallowell, Bureau of Land and Water Quality
James Cassida, Bureau of Land and Water Quality
Scott Whittier, Bureau of Remediation and Waste Management

Others: Darryl Brown, Commissioner
Peggy Bensinger, Assistant Attorney General
Terry Dawson, BEP Administrative Assistant

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

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS:

Commissioner Brown spoke briefly, introducing Pattie Aho as the Department's new Deputy Commissioner. Mr. Brown explained that Ms. Aho will focus on Legislative matters at the Department and noted that she brings a wealth of knowledge to the position.

Commissioner Brown extended his appreciation to Jim Brooks for his service as Acting Commissioner during the Governor's hiring process.

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

I. REGULAR AGENDA

1. CHAPTER 375, SECTION 10. CONTROL OF NOISE / AMENDMENT (citizen petition for rulemaking – post to public hearing)
   Staff: Mike Mullen, Bureau of Land and Water Quality

The Board voted (6-0-0-4) on a motion to post to public hearing a citizen rulemaking initiative to amend Chapter 375 No Adverse Environmental Effect Standard for the Site Location Law, Section 10, Control of Noise. The amendments propose the inclusion of a new subsection I entitled "Sound Level Limits and Measurements for Wind Turbine Projects". The Board anticipates an April public hearing.

The vote was taken pursuant to 5 M.R.S.A. §8055(3), 38 M.R.S.A. §341-D(1-B), and §481-490.

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

2. CHAPTER 693 OPERATOR TRAINING FOR OIL AND HAZARDOUS SUBSTANCE STORAGE FACILITIES / NEW (extend written comment period 90-days)
   Staff Scott Whittier, Bureau of Remediation and Waste Management

The Board voted (6-0-0-4) on a motion to re-post New Chapter 693, Operator Training for Oil and Hazardous Substance Storage Facilities to 90-day written comment period. This regulation seeks to establish training requirements for operators of underground oil and hazardous substance storage facilities. The Department must develop and administer operator training and testing requirements related to the design and operation of equipment and require that the facility

designate a Class A, Class B and Class C operator. A public hearing was held on October 7, 2010 resulting in additional modifications. The rule was posted to an additional 30-day comment period which concluded on January 28, 2011. Pursuant to the Governor's Executive Order, the Board's vote establishes a deadline of May 11, 2011 for submission of additional written public comment.

The vote was taken pursuant to 38 M.R.S.A. §341-D(1-B), §564(2-A)(L) and §1364(2) and P.L. 2009, Chapter 319 An Act to Continue Coverage of Oil Cleanup Costs and Improve Administration of the Ground Water Oil Clean-up Fund.

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

3. CHAPTER 100 DEFINITIONS REGULATION / AMENDMENTS (adoption)
   Staff: Michael Karagiannes, Bureau of Air Quality

The Board voted (6-0-0-4) on a motion to adopt proposed amendments to Chapter 100, Definitions Regulations. Amendments include clarification of existing definitions, new definitions related to greenhouse gases and CO_2 equivalent emissions for implementation of the Department's major source licensing program.

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

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

4. SPRUCE MOUNTAIN WIND LLC – DEPARTMENT PERMIT L-24838-24-A-N AND L-24838-2G-B-N (appeal by Friends of Spruce Mountain and other aggrieved persons)
   Staff: Dawn Hallowell, Bureau of Land and Water Quality

The Board voted (5-1-0-3) on a motion to deny the request for a public hearing and deny the appeal submitted by Friends of Spruce Mountain Inc., Scot and Thelma Kendall, Leo Bilodeau, Irene Chabot, Nathaniel Snow, Richard and Patricia Mabey, Richard Marasse, Robert and Joann Moulton, Daryl Routhier, Nate Ladd, Rob Roy, Kevin Corbett, Wendall Hall and Richard and Suzee Woods concerning the construction and operation of a 20 Megawatt wind energy development project in Woodstock. The vote affirms the Department's approval of permits L-24838-42-A-N and L-24838-2G-B-N. The vote also approved the draft proposed Board Order L-24838-24-A-Z / L-24383-2G-B-Z as modified below.

The vote was taken pursuant to 38 M.R.S.A. §341-D(4), §344(2-A), §480-D, and §484; 35-A M.R.S.A. §§ 3451-3455, and 06-096 CMR Chapters 2, 375 and 500.

Board members Elizabeth Ehrenfeld, Don Guimond, Susan M. Lessard, P. Andrews Nixon, and Frank Woodard voted to support the motion. Board member Lissa Widoff

voted opposed. Board members M. Wing Goodale, Richard Gould, Paul Paydos and Matt Scott were absent.

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... operated in the noise reduction mode at night, **the proposed project** will meet the standards of section 10.

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... model the turbines as a **point** ~~line~~ source.

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... the licensee submitted a letter dated September **24** ~~14~~, 2010, which...

II CONSENT AGENDA ITEMS:

The Board voted (5-0-1-4) to approve consent agenda item 1 as presented.
The vote was taken pursuant to 38 M.R.S. A. §341-D.
Board members Elizabeth Ehrenfeld, Don Guimond, Susan M. Lessard, P. Andrews Nixon, and Lissa Widoff voted to support the motion. Board member Frank Woodard abstained. Board members M. Wing Goodale, Richard Gould, Paul Paydos and Matt Scott were absent.

1. BEP MINUTES – November 18, 2010 (approval)

The Board voted (6-0-0-4) to approve consent agenda item 2 as presented.
The vote was taken pursuant to 38 M.R.S. A. §341-D.
Board members Elizabeth Ehrenfeld, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Lissa Widoff, and Frank Woodard voted to support the motion. Board members M. Wing Goodale, Richard Gould, Paul Paydos and Matt Scott were absent.

2. BEP MINUTES – December 2, 2010 (approval)

The Board voted (6-0-0-4) to approve consent agenda items 3, 4, and 5 as presented.
The vote was taken pursuant to 38 M.R.S. A. §341-D(6).
Board members Elizabeth Ehrenfeld, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Lissa Widoff, and Frank Woodard voted to support the motion. Board members M. Wing Goodale, Richard Gould, Paul Paydos and Matt Scott were absent.

015 3. ODYSSEY CONTRACTING CORP., Deer Isle and Sedgwick – Administrative Consent Agreement (BRWM)
021 4. NORTHEAST COATING TECHNOLOGIES, INC., Kennebunk – Administrative Consent Agreement (BRWM)
033 5. K&K EXCAVATION, INC., Auburn – Administrative Consent Agreement (BLWQ – Land)