STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

Susan M. Lessard, Chair

Cynthia S. Bertocci
Executive Analyst

Terry Dawson
Office Specialist II

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

July 7, 2011

A meeting of the Board of Environmental Protection was held on Thursday, July 7, 2011, at the Civic Center, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 08:00 a.m. with the following individuals present:

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

There is one vacancy.

Staff: Beth Callahan, Bureau of Land and Water Quality
James Cassida, Bureau of Land and Water Quality
Mike Mullen, Bureau of Land and Water Quality

Others: Patricia Aho, Acting Commissioner
Cynthia S. Bertocci, Board Executive Analyst
Thomas Harnett, Assistant Attorney General (regular meeting)
Peggy Bensinger, Assistant Attorney General (public hearing)
Warren Brown, En Rad (BEP consultant)
Terry Dawson, BEP Administrative Assistant

(Meeting adjourned at approximately 6:40 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Acting Commissioner Aho reported the following:

LD 1: With the enactment of LD1, the Department is preparing to implement some of the rulemaking functions that will be conducted by the Office of the Commissioner. Currently, the Department is undergoing an analysis of rules to identify which venue the rule will fall into (Commissioner/Board). It is anticipated that both the Board and the Commissioner's Office will likely have a heavy rulemaking schedule this fall.

Lead National Ambient Air Quality Standard: In 2009 Maine sought a designation of unclassifiable for the National Ambient Air Quality Standards for lead. EPA recently notified Governor LePage that it has made a preliminary decision to designate the entire State of Maine as unclassifiable/attainment for the 2008 Lead National Ambient Air Quality Standard.

- DEP will be analyzing selected filters collected from all Particulate Matter (PM10) sites in the state for lead levels and based on those results a final decision will be made concerning the future need to monitor for the lead ambient air quality standard.
- Final designations are anticipated by mid-October.

Maine Energy: A public meeting was held in Biddeford to receive comments on the draft air emission license for the Maine Energy waste to energy incinerator. Members of the public expressed concerns related to: (1) ongoing odor impacts, (2) potential health impacts from VOC's and toxic air emissions. The Department will accept comments on the draft license until July 25, 2011. It is anticipated that a licensing decision will be available later this summer.

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 (4-0-5-0) to approve consent agenda item 1 as presented.
The vote was taken pursuant to 38 M.R.S. §341-D(6).
Board members M. Wing Goodale, P. Andrews Nixon, Lissa Widoff and Matt Scott voted to support the motion. Board members Susan Lessard, Don Guimond, Elizabeth Ehrenfeld, Richard Gould and Frank Woodard abstained in accordance with 38 MRS § 341-C(8). There is one vacancy.

1. TOWN OF HARTLAND, Hartland – Administrative Consent Agreement (BLWQ – Water)

II. Regular Agenda

1. BB DEVELOPMENT, LLC – DEP SITE LOCATION OF DEVELOPMENT ACT AND NATURAL RESOURCES PROTECTION ACT PERMIT APPROVAL L-25203-28-A-N and L-25203-TE-B-N // OXFORD RESORT CASINO – PHASE I -- APPEAL submitted by Androscoggin River Alliance, Residents Terri Marin, Joelle Schutt, Ronald & Rachel Hamilton, James & Candace Alden, Richard Swanson, Richard Auren, Carol Ann & Larry LaRoche LaBossiere, Brendan McMorrow, Carol Perkins, Robert Benson and Julie Cameron, Mary & Austin Taylor, and John & Evelyn Sylvester (BEP review and approval of modified Board Order)

   Staff: Beth Callahan, Bureau of Land and Water Quality
   Staff: James Cassida, Bureau of Land and Water Quality

   The Board voted (8-0-1-0) on a motion to approve the modified draft proposed Board Order as presented. The Board order denies the appeal submitted by Androscoggin River Alliance and the individually names residents and affirms the Commissioner decision for approval of the Phase 1 of a Four Season Resort and Casino in Oxford. The Board Order requires the licensee to submit additional documentation of financial capacity prior to any additional work at the site other than work related to testing for water supply. It also requires the licensee to complete testing for the water supply wells and submit the results to the Department staff for review and approval prior to September 14, 2011. No work other than site preparation and work related to testing for water supply may be done on the project site prior to Department review and approval of the water supply test results.

   The vote was taken pursuant to 38 M.R.S. § 341-D(4), § 344(2-A), § 480-A et seq., § 481 et seq., and 06-096 CMR Chapter 2, Rules Concerning the Processing of Applications and other Administrative Matters, and Chapters 310, 335, 373, and 375.

   Board members M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Frank Woodard voted to support the motion. Board member Elizabeth Ehrenfeld abstained. There is one vacancy.

The Board Conducted a Public Hearing beginning at 8:30 a.m. In The Matter Of:

CHAPTER 375, SECTION 10 – CONTROL OF NOISE

- Citizen Petition for Rulemaking: Proposed amendments to Section 10 – New Section I. Sound Level Limits and Measurements for Wind Turbine Projects