

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION



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GOVERNOR

Robert A. Foley, Chair

Cynthia S. Bertocci
Executive Analyst

Ruth Ann Burke
Board Clerk

Memorandum

To: Board of Environmental Protection
From: Cindy Bertocci, Board Executive Analyst
Date: March 24, 2014
Re: Appeal Documents and Record Materials

Background

On August 5, 2013, the Commissioner denied an application by Champlain Wind, LLC to develop the Bowers Wind Project, a 16 turbine grid-scale wind energy development proposed to be located in Kossuth Township, Washington County and Carroll Plantation, Penobscot County. The application was denied based upon a finding that the proposed activity would significantly compromise views from a scenic resource of state or national significance (SRSNS) and would have an unreasonable adverse effect on the scenic character and existing uses related to scenic character of the resource. The Board received two timely appeals of the Commissioner's decision, one from the applicant, Champlain Wind, LLC, and one from the landowner, Douglas E. Humphrey and Bowers Mountain, LLC.

The project has an extensive procedural history and lengthy evidentiary record. The proposed project is a modified version of a project previously denied by the Land Use Regulation Commission (LURC). In 2012, the Legislature enacted P.L. 2011, c. 682 which, among other things, transferred permitting authority for grid-scale wind energy projects proposed to be located in the unorganized and deorganized areas of the state from LURC (now LUPC) to the DEP. The applicant's modified application was subsequently filed with the DEP. The Department held a formal adjudicatory hearing on the application on April 30 and May 1, 2013 during which expert witnesses testified on behalf of the applicant and intervenors Conservation Law Foundation (CLF) / Maine Renewable Energy Association (MREA), Partnership for the Preservation of Downeast Lakes Watershed (PPDLW), and David Carrigan. At the hearing, the Department also received testimony from the interested public.

Appeal Documents and Record Material

As noted above, Champlain Wind, LLC and Douglas E. Humphrey and Bowers Mountain, LLC filed timely appeals of the Commissioner's decision. Intervenors PPDLW, CLF, and MREA and 96 interested persons filed timely responses to the appeals. The appeals and responses to the appeals cited numerous documents in the Department's licensing record. This packet of materials contains documents from the record which the parties requested be provided to you, excerpts from the application, and the transcript of the Department's public hearing on the application. The record material provided here is not the entire record, but rather the significant portions of the record that pertain to the scenic standard for wind energy projects.

The material provided here contains some duplication. In particular portions of Section 30 of the permit application, the section called Visual Impact (pages 0519 – 1068 of this packet), are also included in, or appended to, the public hearing testimony of various witnesses. The material was reproduced as presented by the witnesses so that there would be no confusion as to which photographs, tables, etc. were the subject of each witness' testimony.

An index to the packet of materials is attached.