



# State of Maine Land Use Laws and Regulations

## Solar Development

Jim Beyer & Nick Livesay  
Bureau of Land Resources

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

*Protecting Maine's Air, Land and Water*

# KEY LAND USE LAWS

- Site Location of Development Law (Site Law)
  - 38 M.R.S. §§ 481 to 489-E
- Natural Resources Protection Act (NRPA)
  - 38 M.R.S. §§ 480-A to 480-JJ
- Stormwater Management Law
  - 38 M.R.S. § 420-D



# Site Law Jurisdiction

- Development occupies land or water area **>20 acres**
  - Examples: solar projects, ski resorts, cemeteries, golf courses
- Buildings, parking lots, roads, paved areas, areas to be stripped or graded and not revegetated w/in one year, together, **>3 acres**
  - Examples: shopping centers, industrial facilities



6/2018

# Solar Projects



Google Earth

Imagery Date: 6/21/2018 44°33'25.47" N 69°40'23.05" W elev 353 ft eye alt 2146 ft

9:34 AM



# Site Law Statutory Standards

- No adverse effect on the natural environment
- “...developer has made adequate provision for fitting the development harmoniously into the existing environment...and will not adversely effect existing uses, scenic character, air quality, water quality or other natural resources....” 38 M.R.S. § 484.

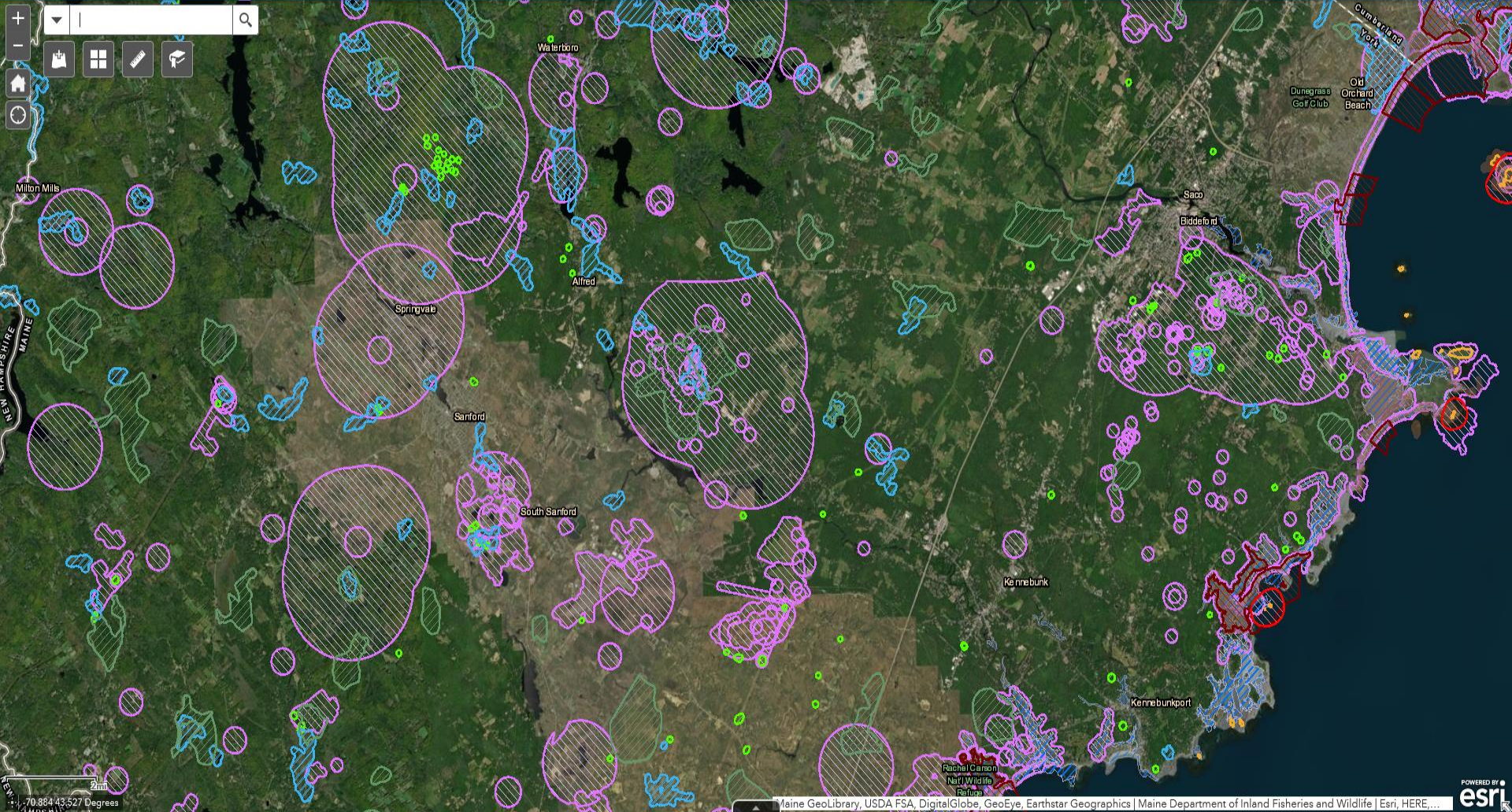


# Site Law Standards

Chapter 375: No adverse environmental effect

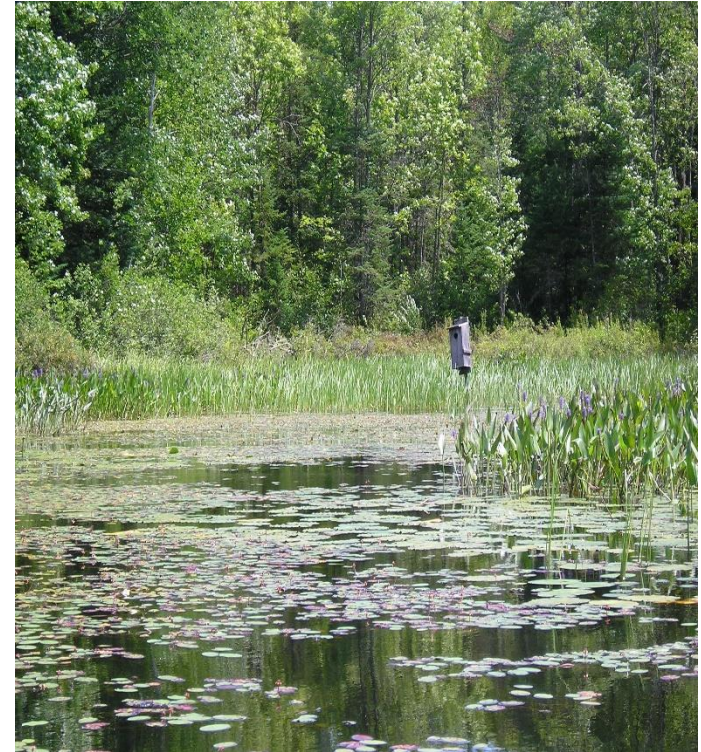
- Erosion and sedimentation control
- Stormwater
- Buffers
- Noise
- Historic sites
- Unusual natural areas
- Scenic character
- Wildlife and fisheries
- Solid waste disposal





# Natural Resources Protection Act (NRPA)

- Rivers, streams and brooks
- Lakes (Great Ponds)
- Freshwater wetlands
- Coastal wetlands
- Significant Wildlife Habitats
- Fragile Mountain Areas
- Coastal Sand Dunes

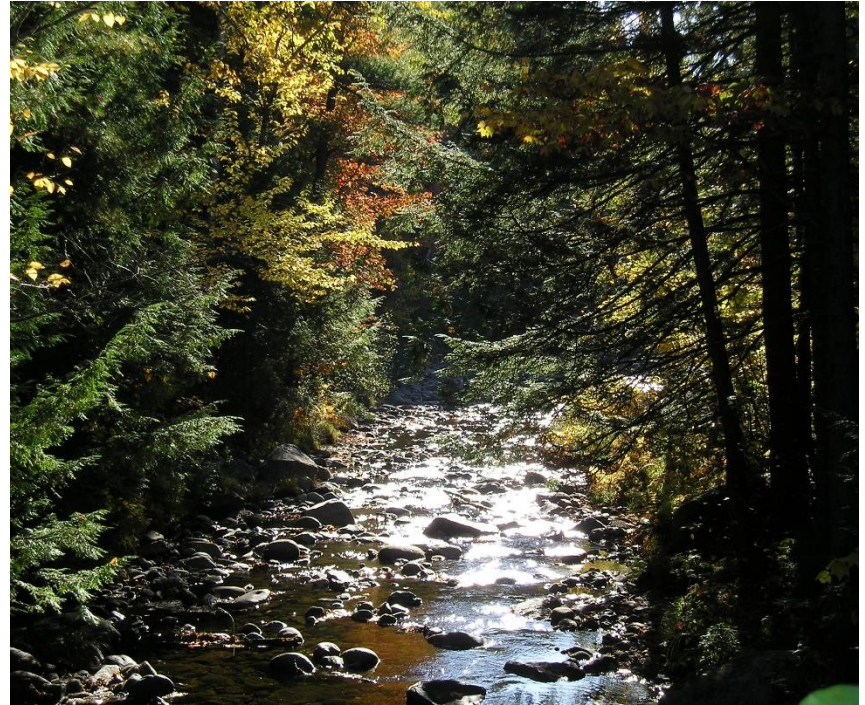




# NRPA Jurisdiction

Activities that require a permit:

- Alteration within 75 feet of certain resources
- Placing fill in a resource
- Construction of any permanent structure in or over a resource



# Freshwater Wetland Alterations

- All projects must avoid and minimize impacts to the greatest extent possible.
- **Tier 1**                    0 - 14,999 sq. ft.
- **Tier 2**                    15,000 - 43,560 sq. ft.
- **Tier 3**                    > 1 acre



Activities that result in 15,000 square feet or more of wetland alteration generally requires compensation in the form of In-Lieu Fee or wetland restoration, creation, enhancement, or preservation.



# Significant Wildlife Habitat

- Significant vernal pool habitat
  - Evaluation of significance can only be done in spring
- High and moderate value waterfowl and wading bird habitat (e.g., IWWH)



# Stormwater Management Law



**Need to obtain a Stormwater permit if disturbing 1 acre or more of area on a project site in organized towns**



# Public Notice – Chapter 2

- Public information meeting – required prior to filing new Site Law and select NRPA applications (e.g., Tier 3, compensation required)
- Public notice requirements – mailing & newspaper publication
- Public comment is allowed during application processing
- File is available for public inspection



# Permit Processing

- Pre-application meeting – for all Site Law applications and select NRPA applications
- Pre-submission meeting
- Completeness determination w/in 15 working days
- Resource agency comments:
  - Dept. Inland Fisheries & Wildlife
  - Maine Natural Areas Program
  - Maine Historic Preservation Commission
- DEP review and written decision covering all applicable laws



# Permit Processing Times

- Site Law: 150 days
- NRPA
  - Permit-by-Rule: 14 days
  - Tier I/II/III: 45/60/120 days
  - IWWH/SVP: 90/120 days
- Stormwater
  - Permit-by-Rule: 14 days
  - Individual permit: 45 days
- Receipt of Site Law applications for 15 or more solar projects or NRPA application for 25 or more solar projects, adds:
  - 45 days to Site Law processing time
  - 25 days to NRPA processing times (except Tier I and II)



# How to Promote Efficiency

- Site Selection – pick a site where development will avoid impacts
- Early Consultation
  - Meet with DEP staff to discuss your project and identify any permitting challenges early
  - Meet with resource agencies, such as DIFW, before filing an application to identify and resolve any wildlife or habitat concerns
- Application Quality – prepare a quality application that address the applicable standards and minimizes the need for additional information requests





# Clearance Letter for PUC

- Department will provide clearance letter to distributed generation developers interested in participating in PUC procurement
- To obtain letter, submit site plan with:
  - Location of significant wildlife habitat
  - Acreage, anything counting towards Site Law jurisdiction
  - Delineated wetlands (if none, letter from wetland scientist)
  - Amount disturbed area
  - Amount of developed area
  - Amount of impervious area



# FAQs

- What area counts towards the 20-acre Site Law threshold?
- What is common scheme of development and how does it apply to solar projects?
- How do I calculate impervious and developed area?
- How are wetland impacts calculated?
- How do I permit a project on a capped landfill?
- How do I permit a project in a gravel pit?



# Contact Us

If you have any questions about your project, please let us know.

Jim Beyer [jim.r.beyer@maine.gov](mailto:jim.r.beyer@maine.gov)

Nick Livesay [nick.livesay@maine.gov](mailto:nick.livesay@maine.gov)

