STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS LIVESAY
EXECUTIVE DIRECTOR

April 8, 2015

Via U.S. Mail and E-mail

Maria Lentine-Eggett
Maine Department of Environmental Protection
Eastern Maine Regional Office
106 Hogan Road, Suite 6
Bangor, ME 04401

RE: Site Law Certification SLC-6, Weaver Wind Project, Weaver Wind, LLC; Osborn, T22 MD BPP, T16 MD BPP, Hancock County

Dear Maria:

Enclosed is a copy of Site Law Certification SLC-6 for the Weaver Wind Project located in Osborn, T22 MD BPP, and T16 MD BPP, Hancock County. SLC-6 was conditionally approved by the Commission on April 8, 2015 at their regular monthly business meeting, which was held in Brewer, Maine. This Certification is not a final agency action, as it will be contained within any Department of Environmental Protection Site Location of Development permitting decision for the project. By way of this letter, the Commission hereby requests that all conditions of approval included in the SLC-6 Certification be included by reference in any SLOD permit issued for the project.

If you have any questions or need any additional information from the Land Use Planning Commission, please feel free to contact me at the LUPC's Bangor office, at (207) 941-4593.

Sincerely,

SR Beyer

Stacie R. Beyer, Senior Planner
Planning Division

Enclosure: LUPC Site Law Certification SLC-6

xc: SLC-6 file

cc: James Cassida, SunEdison (via e-mail only)
Kelly Boden, Esq., Verrill Dana (via e-mail only)
Ian Broadwater, Normandeau Associates (via e-mail only)

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS LIVESAY
EXECUTIVE DIRECTOR

Certification

COMMISSION DETERMINATION
IN THE MATTER OF

Department of Environmental Protection
Request for Site Law Certification
Weaver Wind, LLC
Site Law Certification #SLC-6

Findings of Fact and Determination

The Maine Land Use Planning Commission, at a meeting of the Commission held on April 8, 2015, in Brewer, Maine, after reviewing the certification request and supporting documents submitted by Weaver Wind, LLC for Site Law Certification SLC-6 and other related materials on file, pursuant to the Commission's Land Use Standards, finds the following facts:

1. *Person Requesting Certification*: Weaver Wind, LLC
   129 Middle Street
   Portland, ME 04101

2. *Accepted as Complete for Processing*: February 9, 2015

3. *Location of Proposal*: Town of Osborn, T16 MD BPP, and T22 MD BPP, Hancock County

   A. Town of Osborn–
      (1) Map 1, Lot 6 (Easement, landowner Ursa Major, LLC)
      (2) Map 1, Lot 2 & 3 (Lease, landowner Tree Top Manufacturing, Inc.)

   B. T16 MD BPP – Map 1, Lot 1 (Easement, landowner Lakeville Shores, Inc.)

   C. T22 MD BPP – Plan 1, Lot 1 (Easement, landowner Ursa Major, LLC)

18 ELKINS LANE, HARLOW BUILDING
PHONE: 207-287-2631 www.maine.gov/acf FAX: 207-287-7943

D. UTM Northing 4958351m
UTM Easting 466805m

4. *Current Zoning*: (M-GN) General Management Subdistrict
(P-WL) Wetland Protection Subdistrict
(P-SL2) Shoreland Protection Subdistrict
Additionally, the Project will be located entirely within the expedited permitting area for wind energy development.

5. *Permanent project area.* Clearing of 39 acres for turbines and other permanent structures, excluding the above-ground 34.5 kV collector line corridor.

INTRODUCTION

6. Public Law 2011, Chapter 682 (enacting LD 1798) shifted the primary permitting authority for grid-scale wind energy development located in the unorganized areas of Maine from the Land Use Planning Commission (the Commission or the LUPC) to the Maine Department of Environmental Protection (DEP), effective September 1, 2012. When a grid-scale wind energy development in an unorganized area is proposed, the DEP reviews the project under the Site Location of Development Law (Site Law) for a Site Location of Development permit, and the Commission must review a request for certification that the project is an allowed use in the subdistricts affected and that the project meets the Commission's Land Use Standards applicable to the project that are not considered in the DEP review.

The following Findings, Conclusions and Conditions constitute the Commission's certification that the Weaver Wind Project, as proposed, meets the applicable Land Use Standards that are not considered in the DEP review. By letter dated February 12, 2015, the Commission, through its staff, certified to the DEP that the Project is an allowed use in the subdistricts in which it is proposed (attached as Appendix A).

PROPOSAL

7. On December 24, 2014, Weaver Wind, LLC submitted to the Commission a Request for Certification including a Site Location Map, and a copy of a DEP Site Law/ Natural Resources Protection Act (NRPA) application for the Weaver Wind Project (the Project), which includes Section 31 addressing the Commission's criteria for certification.

A. The proposed Project is a 23 turbine, grid-scale wind energy development to be located in the expedited permitting area for wind energy development. It will be constructed on hills south of Route 9, including Hardwood Hill, Birch Hill, Een Ridge, Little Bull Hill, and other unnamed hills nearby. Ridge elevations within the project area range between 500 and 700 feet above sea level.

B. The proposed Project will connect to the New England electrical grid by the existing 115 kV Bangor Hydro Electric Company's Line 66 transmission line, at the same substation location as the existing Bull Hill Wind Project.

C. The proposed Project's Operations & Maintenance (O&M) facility will be located in the organized town of Aurora, and is not the subject of this certification.

8. *Project description.* The Project will consist of the following:

   A. *Turbines.* Fifteen (15) 3.3 megawatt turbines are proposed in the LUPC service area, having a maximum height of either 574 feet or 591 feet, depending on the type of turbine used, each located on a turbine pad measuring up to approximately 40 feet in diameter. A 75-foot by 120-foot crane pad and a short 24-foot wide access drive will also be constructed for each turbine. The turbines will be grouped in three separate strings, connected by the Project access roads and the 34.5 kV collector line. All turbines will be located in the Town of Osborn.

   B. *Roads.*
      (1) *Access.* There is a network of existing land management roads in the vicinity of the Project, some of which will be upgraded for the Project. The primary point of access from a public road to the Project is State Route 9. Other private roads used for access to the Project include the 73-00-0 Road (Spectacle Pond Road) and the Stone Dam Road.
      (2) *Road maintenance.* All new roads constructed for the Project will be maintained by Weaver Wind. Existing roads outside the Project area will continue to be maintained by the landowners.
      (3) *Public right of access.* Although the 73-00-0 Road and the Stone Dam Road are through roads and sometimes used by the public, there is no legal right of access for the public to these roads (or to the other land management roads connecting to them).
      (4) *Crane paths and access roads.* Approximately 4 miles of new 39.5-foot wide crane paths and approximately 1.6 miles of new 24-foot wide roadway will be constructed to provide access to the turbines. An additional 2.8 miles of existing roads will be upgraded for project access.

   C. *Met towers.* A maximum of four permanent meteorological (met) towers (pmt 14, 15_16, 20, and 22_23) and up to six temporary met towers (tmt 14, 15, 16, 20, 22, 23) having a maximum height of 400 feet and a footprint of 3.82 acres per tower are proposed in the Town of Osborn. The locations for the permanent met towers will be cleared. The temporary met towers will be placed within the turbine pads and removed prior to operation.

   D. *34.5 kV collector line.* A total of approximately 16.3 miles of 34.5 kV collector line will be run underground along the Project roads with 13.7 miles in Osborn, 1.6 miles in T16 MD, and 1.0 miles in T22 MD. A total of approximately 0.7 miles of 34.5 kV collector line will be located above-ground in Osborn. The collector line will connect the Project turbines to the existing Bull Hill Wind Project substation (*reference* Development Permit DP 4886). The underground portions of the collector line will be placed in a trench constructed in the shoulder of existing roads, and will include roadside junction boxes and pull boxes as needed.

   E. *Substation.* The proposed Weaver Wind Project will connect to the existing 115 kV transmission Line 66 at the Bull Hill substation in T16 MD (*reference* Development Permit DP 4886). The Request for Certification includes plans to either expand the existing substation or construct an interconnect facility at the substation. The expansion will include an additional 300 by 400 foot gravel pad, electrical infrastructure, and new fencing.

   F. *Temporary lay-down areas and trailers.* Twelve (12) temporary lay-down areas totaling approximately 41.8 acres are proposed in the LUPC service area. Tree clearing will be required in nine (9) of the lay-down areas with 18.5 acres of additional clearing in Osborn. All temporary laydown areas will be returned to their preconstruction condition by either grading and seeding (previously vegetated areas) or just grading (gravel pit areas) at the completion of construction. The lay-down areas will be used for equipment storage, up to seven (7) temporary trailers a maximum of 24 feet by 64 feet in size, and

parking during construction. Additional parking will be provided in an expanded parking lot at the existing O&M building in Aurora.

9. *Public notice.* On December 20, 2014, a Notice of Intent to Develop and Request for Certification was sent to project abuttors and other parties by U.S. Postal Service mail. The public notice included information on filing comments and requesting a public hearing within 20 days of the Commission accepting the Request for Certification as complete for processing. LUPC staff deemed the certification request complete for processing on February 9, 2015. No public comments or requests for a public hearing were received by the LUPC.

TITLE, RIGHT OR INTEREST

10. Weaver Wind elected to simultaneously apply to the DEP for a Site Location of Development permit for the Weaver Wind Project. The DEP application was accepted as complete for processing on January 30, 2015. Based on these actions by Weaver Wind and the DEP, and provided the DEP finds in their review of the project that Weaver Wind has sufficient title, right or interest, the Commission concludes that Weaver Wind has administrative standing to request certification of the Project.

LUPC LAND USE STANDARDS

11. The Commission's Land Use Standards that are relevant to certifying compliance of the proposed Project are evaluated in Findings #12 through #19.

12. *Land Division History.*

A. *Review Criteria.* 12 M.R.S.A. § 682(2-A) and § 685-B(1)(B); and §§10.24, F (quoting 12 M.R.S.A. § 685-B(4)(F)) and 10.25,Q,1 of the Commission's Land Use Standards.

B. *Land division histories.* Weaver Wind provided land division histories for the four Project parcels in the Town of Osborn, T16 MD BPP, and T22 MD BPP evaluating the land transfers for each parcel during the preceding twenty years, noting where a land division had formed a lot and whether that lot counted as a subdivision lot or was exempt. Reference is made to memos (4) to James Cassida, First Wind, from Anthony Calagni, Esq., Verrill Dana LLP regarding Weaver Wind Project 20 year land division history-Property of Lakeville Shores, Inc. in T16 MD BPP, Hancock County, dated December 20, 2014; Property of Tree Top Manufacturing, Inc., in Osborn, Hancock County, dated December 12, 2014; Property of Ursa Major in Osborn, Hancock County, dated January 9, 2015; and Property of Ursa Major in T22 MD, Hancock County, dated March 19, 2015. Weaver Wind determined that no land divisions requiring a subdivision permit from the Commission had occurred for any of the Project parcels during the preceding 20 years.

(1) *Osborn.* One Project parcel in Osborn (Map 1, Lot 6) is owned by Ursa Major, LLC. The parent parcel was acquired by Ursa Major, LLC from Kennebec West Forest, LLC on January 28, 2011. Ursa Major, LLC granted an easement agreement to Weaver Wind on October 22, 2012 for wind energy development on Ursa Major's entire parcel in Osborn. The second Project parcel in Osborn (Map 1, Lots 2 and 3) is owned by Tree Top Manufacturing, Inc. Tree Top Manufacturing acquired the property from Kennebec West Forest, LLC on July 21, 2005. In September of 2008, Tree Top leased a portion of its property to Blue Sky East, LLC. Then, by assignment and assumption of lease effective June 30, 2014, Blue Sky East's entire interest in the land lease was assigned to Weaver Wind, LLC.

(2) *T22 MD.* The Project parcel in T22 MD (Plan 1, Lot 1) is owned by Ursa Major, LLC. The parent parcel was acquired by Ursa Major, LLC from Kennebec West Forest, LLC on January 28, 2011. Ursa Major, LLC granted an easement agreement to Weaver Wind on October 22, 2012 for wind energy development on Ursa Major's entire parcel in T22 MD.

(3) *T16 MD.* The Project parcel in T16 MD BPP (Map 1, Lot 1) is owned by Lakeville Shores, Inc. Lakeville Shores acquired the property from Five Island Land Company and Herbert C. Haynes, Inc. on February 18, 2009. A portion of the Lakeville Shores parcel is also leased to Blue Sky East for wind energy development. Lakeville Shores, joined by Blue Sky East and Hancock Wind, granted an easement to Weaver Wind, LLC to construct collection lines and facilities connected with the BHE Substation on December 22, 2014.

C. *Existing camp lease lots.* There are existing camp lease lots on three Project parcels that were either (a) created prior the Commission's inception in 1971, (b) approved by the Environmental Improvement Commission in 1972, or (c) previously approved by the Commission. All lots leased or transferred during the previous 20 years were assessed to determine if any of the leases had lapsed for more than two years before being renewed, or before the lot was sold. *(Reference* §10.25,Q,1,e of the Commission's Standards). Weaver Wind concluded that all lease lots had been continuously leased with no gaps of two or more years except for Lot 104, Lot 150, and 170 from Ursa Major's parcel in Osborn, which were sold on November 10, 2010, April 23, 2012, and December 17, 2012 respectively. In 2005, Lot 104 was identified to be reconfigured (*see* Advisory Ruling AR 05-009) and eventually was joined in part with Lot 105 (*see* Building Permit BP 7995-B). Lot 150 was also identified to be reconfigured in 2005 (*see* Advisory Ruling AR 05-009). The leases for Lots 104 and 150 expired on April 30, 2008, and neither lease was renewed after that time. The lease agreement for Lot 170 was canceled on September 10, 2009. All of these lots originally abutted other camp lots, but the other lots were sold to individuals between 2005 and 2007. By the time these three lots were sold, all were singular, stand-alone lots abutting other private ownership, and not contiguous with the parent parcel.

D. *Conclusions.* Based on the materials supplied by Weaver Wind; Advisory Rulings AR 98-129, AR 05-009, AR 08-33, and AR 13-4; and other Commission records, no land divisions requiring subdivision approval from the Commission occurred during the preceding 20 years (since 1995) for any of the Project parcels.

(1) *Camp lease lots.* The evidence in the record indicates that all of the existing camp lease lots were either leased continuously, or if transferred were exempt from being counted as a lot, including Lot 104, Lot 150, and Lot 170 in Osborn, as discussed in Section C, above. When they were sold, due to the previous transfers of other abutting lots, none of these lots were contiguous with the remaining parent parcel owned by Black Bear Cub (for the transfer of Lot 104 in 2010 and Lot 170 in 2012) or by Ursa Major (for the transfer of Lot 150 in 2012). All were stand-alone lots created prior to the inception of the Commission in 1971, and were not merged with the parent parcel when they were sold. As such, none of these camp lots are counted as a non-exempt division of the parent parcel.

(2) *Exemption for lots used solely for forest management activities.* When a parcel of land is exempt by virtue of being used solely for forest management purposes (*see* Section 10.25,Q,1,g(1) and (2) of the Commission's standards), if that parcel later is subject to an agreement for multiple use of that parcel, in this case for both forestry and wind energy development, the parcel can no longer be claimed as exempt due to being solely used for forestry. This determination was applied by staff in the evaluation of all four Project parcels, which are used by the underlying landowners for forest management activities. While the change to multiple uses of the parcels when a wind easement or lease was granted did not result in an unauthorized land division occurring during the previous 20 years, it is relevant to future divisions of these parcels.

13. *Vehicular circulation, access and parking.* (*See* Finding #8,B for the description of the Project roads)

A. *Review criteria.* §§ 10.24,B (quoting 12 M.R.S.A. § 685-B(4)(B)) and 10.25,D of the Commission's Land Use Standards.

B. *Vehicular circulation and access – §§10.25,D,1; and 2,a, b and d.*
(1) *Access management.* All access points for the proposed project are located at existing road intersections, shared with other private landowners. The Easement and Land Lease Agreements with the owners of the Project parcels include access easement rights over the existing private roads. One permanent Project access point connects the Project to the private gravel land management road 73-00-0, two access points connect the Project to the privately owned Stone Dam Road, and three points provide connection to State Route 9. No new Project roads will require exit by backing onto a roadway.
(2) *Traffic estimate.* Because the Project will not generate a significant amount of traffic, no traffic analysis was conducted. Weaver Wind estimated that during peak construction, approximately 200 worker vehicles per day will be traveling to the Project site. For the construction period, on some days, up to 40 large vehicles per day are anticipated for turbine delivery and installation. Once fully operational, the number of worker vehicle trips per day to the Project site will be approximately two to four trips per day. The Commission also requested that Weaver Wind provide a traffic estimate for routine operation once all three wind energy developments are operational in the area (the Bull Hill, Hancock Wind and Weaver Wind Projects). Weaver provided that at full build out, the combined project will generate approximately 10 to 12 vehicle trips per day on average. Weaver Wind believes the increase in traffic constitutes a minor additional traffic demand on project roads and Route 9.
(3) *Co-use of existing roads.* The new and existing roads within the Project area will be co-used for forest management purposes.
(4) *Intersection design.* Seven existing intersections will be upgraded as part of the project to accommodate the transportation of turbine components to their construction sites. Weaver Wind's access road design provides for roads to connect at an angle greater than 60 degrees. The curb radius will be greater than 15 feet in order to accommodate large vehicles.

C. *Parking - §§ 10.25,D,3,a and e.* No new permanent parking areas or on-street parking is proposed for the portions of the Project in the LUPC service area. During construction, designated temporary parking areas will be located in the lay-down areas. Weaver Wind has concluded that, with the addition of 10 parking spaces at the existing O&M building in Aurora, and the approximately 42 acres of temporary laydown areas, adequate parking will be available for construction. To ensure safe ingress and egress, Weaver Wind has proposed to install warning signs to alert approaching vehicles on the access roads of construction traffic entering, and will manage the flow of traffic into and out of temporary laydown areas with designated entrance and exit locations.

D. *Roadway Design – §§ 10.25,D,4,a, b, e and f.* Weaver Wind has designed the Project roadway system to meet the specific needs of the Project. The Project roadway system will be integrated with existing private land management roads that have no legal public right of access. The Project will involve upgrading portions of the existing private land management roads to be 24 feet wide, as well as construction of new 39.5-foot wide crane paths and new 24-foot wide access roads. Road cross-sections indicate a road surface of 12- 18 $\pm$ inches of compacted 4 inch minus gravel or processed blast rock. One temporary road turnout is proposed on the Een Ridge Access Road. After construction, the turnout will be allowed to revegetate. Weaver Wind concluded that it is unlikely the turnout will be

used for forest operations during its short lifespan. Several areas along proposed access roads exceed a slope of 10%, but the maximum grade for project access roads does not exceed a slope of 12%.

E. *Conclusions*. Based on information provided in Section 31 of the Site Location Application, and additional information submitted on 1/22/15, 2/9/15, and 3/5/15, Weaver Wind has demonstrated that the applicable criteria for vehicle circulation, access, parking, and roadway design in §10.24,B and §§10.25,D,1, 2, 3, and 4 of the Commission's Land Use Standards will be met by the Project. Specifically:

(1) *Vehicle circulation and access - §§ 10.25,D,1 and 2.* The proposed Project roadway system layout and design will meet the provisions of §§ 10.25,D,1 and D,2,a through e in that existing roadways will be used where practicable limiting the number of new entrances and exits, project roads will be co-used with forestry operations, and intersections have been designed to meet the specific needs of the project.

(2) *Parking - § 10.25,D,3*,a. Given the number of new permanent parking spaces being added to the Aurora O&M building and the size and number of temporary laydown areas proposed, the Commission concludes that parking for project construction and operation will meet the needs of the development. All temporary parking areas will be arranged such that vehicles entering and leaving the lay-down areas do not create traffic congestion or hazards on the Project roads.

(3) *Roadway design - §10.25,D,4,*,a, b, e and f. The assignment of class to a roadway system is applicable to Level B and Level C road projects. For the proposed Project, the upgrading of the existing land management roads, if it were done separately from the rest of the Project, would constitute a Level A or B road project. The new Project roads constitute a Level C road project. However, for the purpose of this assessment, the sections of the existing land management roads that will be upgraded and integrated into the permanent Project roadway system are considered to be a part of the Level C road project.

In accordance with §§10.25,D,4, a and b, the Project roads will create a Class 1 roadway system serving a high-intensity commercial or industrial project, but will be located in a low-density area with sparse development, typically associated with a Class 3 roadway system. The roadway design and specifications proposed are appropriate for this Project with regard to: (a) the nature and level of use, particularly with regard to the large construction equipment that will be traveling on certain road segments and the low traffic volume once the project is operational; (b) the nature of the roads accessing the site; location relative to the sparse surrounding development; (c) the type and intensity of the proposed use; and (d) services and utilities likely to need access to the Project area in the future. The Commission has determined that the Project's roadway system will meet the needs of the Project and will not cause safety problems, if constructed and managed as proposed.

14. *Lighting.*

A. *Review criteria.* §10.25,F,2 of the Commission's Land Use Standards.

B. *Permanent lighting.* Permanent lighting associated with the Project includes lighting for turbines and met towers as required for aviation safety by the Federal Aviation Administration (FAA), motion sensitive entry lights at the base of each turbine, and pole mounted floodlights for nighttime work at the substation. Lighting required by the FAA, lighting activated by motion-sensors, and temporary emergency lighting are exempt from the requirements of §10.25,F,2. In response to LUPC's question about the potential to switch motion sensitive lights to manual, Weaver stated that certain maintenance tasks involve sedentary work on electrical components that may not be adequate to trigger the motion sensor, and in these cases, personnel will need to be able to manually operate lighting. Each employee

will be trained in lock up procedures, including checking light switches, to ensure lights are left in motion-sensing mode upon exiting the area.

C. *Temporary lighting during construction.* Temporary lighting to be used during turbine installation may be necessary to take advantage of low wind conditions. Portable trailer-mounted flood lights will be used, with approximately three of these systems needed at any one turbine location. Limited nighttime security lighting may also be used during construction at the Project's access points.

D. *Conclusion.* The Project as proposed will meet the provisions of §10.25,F,2 of the Commission's Land Use Standards for permanent lighting provided that all employees working on the Project site are trained in lock up procedures, including ensuring lights are left in motion-sensing mode upon exiting the area. Records of this training must be maintained and made available to the Commission upon reasonable request.

15. *Activities in flood prone areas.*

A. *Review criteria.* §10.25, T of the Commission's Land Use Standards.

B. *Flood prone areas.* Weaver Wind provided in Section 19 of the DEP Site Location Application a map entitled "Figure 19-1, FEMA Flood Zones, and the results of their review of the FEMA Flood Insurance Rate Maps, which concluded that no project components will be constructed within any mapped 100-year floodplains.

C. *Conclusion.* Based on materials provided by Weaver Wind, the Commission concludes the provisions of §10.25,T are not applicable to the project.

16. *Dimensional requirements.*

A. *Review criteria.* §§10.26, A through G of the Commission's Land Use Standards.

B. *Minimum lot size - §10.26, A.* §10.26,A,2 specifies that the minimum lot size for commercial or industrial development is 40,000 square feet. All parcels containing areas to be developed for the Project are in excess of 1,000 acres in size.

C. *Minimum shoreline frontage - §10.26, B.* §§10.26,B,1,b and 2,b specify that the minimum shoreline frontage for a commercial or industrial development is 200 feet for parcels bordering a minor flowing water or standing body of water less than 10 acres in size; and the frontage for a parcel located on a waterbody greater than 10 acres in size or a major flowing water is 300 feet. In response to a specific question about minimum shoreline frontage, Weaver Wind indicated that the lots burdened by easement agreements including all the remaining land of Ursa Major in Osborn and T22 MD have shoreline frontages that exceed those required in *§10.26,B.* The Project parcel leased from Tree Top Manufacturing has 15,000 $^{\pm}$ feet of frontage on Spectacle Pond, 5,500$^{\pm}$ feet of frontage on the East Branch of the Union River, 8,050$^{\pm}$ feet of frontage on the Bog River, and 3,000$^{\pm}$ feet of frontage along Timber Brook.

D. *Minimum road frontage – §10.26, C.* §10.26,C,1,b specifies that the minimum road frontage for commercial or industrial development is 200 feet for any road used for public access. The frontage on the 73-00-00 road within the Ursa Major Easement Project parcels in Osborn and T22 MD exceeds 200

feet. The frontage on the Stone Dam Road within the Tree Top Manufacturing Project parcel in Osborn also exceeds 200 feet.

E. *Minimum setbacks – §§10.26,D,2 and 3; and §10.26,G,5.* §10.26,D,2 specifies that the minimum setback for commercial or industrial development is 150 feet from waterbodies greater than 10 acres in size; 100 feet from minor flowing waters, P-WL1 wetlands and waterbodies less than 10 acres in size; 75 feet from roads used by the public for access; and 25 feet from side and rear property boundary lines. §10.26,G,5 provides that an exception may be made for setbacks "where the Commission finds that such structures must be located near to the shoreline, road, or property line due to the nature of their use."

(1) *Turbines.* All turbines are proposed to be located in excess of the minimum setback requirements. The closest a turbine will be to a waterbody greater than 10 acres in size is Turbine 5 at 1,366 feet from Spectacle Pond. The closest a turbine will be to a property boundary line is Turbine 21 at 1,432 feet. The closest a turbine will be to a road used by the public is Turbine 19 at 1,256 feet from the Spectacle Pond Road. The turbines will also be set back well in excess of the minimum requirements for major and minor flowing waters, P-WL1 wetlands, and waterbodies less than 10 acres in size.

(2) *Met towers.* The temporary and permanent met towers will be located in excess of the minimum setback requirements. Permanent met tower pmt20 is the closest project component to a property line at 631 feet, and the traveled portion of a roadway at 953 feet from Route 9.

(3) *Collector line and poles.* With revised plans submitted on 3/25/15, which relocated a small section of the line away from the wetland of special significance W175, a majority of the 34.5 kV collector line is proposed to be located in excess of the minimum setback requirements. One exception is the placement of two poles within 100 feet of a P-WL1 wetland and within 75 feet of a P-SL2 stream at the crossing of the East Branch of the Union River. These two poles will need to be closer than the required setback to provide adequate support for the collector line pole-to-pole spans. §10.26,G,5 of the Commissions Land Use Standards provides that an exception may be made to a setback requirement if the structure must be located closer due to the nature of its use.

(4) *Temporary trailers.* All temporary trailers will be located within the proposed lay-down areas. Although final locations have not been determined, Weaver Wind has proposed that all office trailers will meet all dimensional setback requirements.

(5) *Substation.* The addition to the existing Bull Hill substation for the Project will not cause the substation footprint to be located closer to the Bull Hill Road than the existing substation or to be set back less than the minimum requirements.

F. *Maximum lot coverage - §§10.26, E,1 and 2.* §10.26,E,1 specifies that the maximum lot coverage is 30% for all uses, including driveways, sidewalks, parking lots, and other impervious surfaces. The maximum lot coverage for any of the Project parcels will be less than 1%.

G. *Maximum structure height - §10.26,F.* §§10.26,F,1,b and 3 specify that the maximum height for a structure located further than 500 feet from a waterbody greater than 10 acres in size is 100 feet; except that the maximum structure height may be exceeded for structures with no floor area such as chimneys, towers, ventilators, spires, and free-standing towers and turbines with the Commission's approval.

(1) All proposed Project structures will be located more than 500 feet from a great pond. The turbines will have a maximum height of 591 feet at the upward tip of the blade, and the met towers will have a maximum height of 400 feet. Both the turbines and the met towers are free-standing structures, and may exceed the maximum height of 100 feet with Commission approval.

(2) In reviewing wind energy developments, the factors that the Commission evaluates to determine whether to approve a tower or turbine height in excess of 100 feet usually include visual impact and safety considerations. These factors are specifically considered in the DEP's review. For that

reason, the Commission, conditioned upon DEP's review and approval of visual impact and safety considerations, has concluded that the turbines and met towers comply with the Commission's structure height requirements.

H. *Conclusion.* As proposed, the Project complies with all applicable dimensional requirements in §§10.26, A through G of the Commission's Land Use Standards, including minimum setbacks and maximum structure height in that the poles located where the 34.5 kV collector line crosses a stream will be consistent with §10.26,G,5, and provided that the DEP finds the Project turbines and towers do not have an unreasonable visual impact or impact on public safety.

17. *Vegetation clearing – §10.27,B of the Commission's Land Use Standards.*

A. *Review criteria.* Based on the materials supplied by Weaver Wind, §§10.27,B,1 and 2 of the Commission's Standards are applicable to this Project.

B. In total, 39 acres will remain permanently cleared for the proposed Project, specifically for the turbines, the crane path access roads and new and upgraded access roads, and permanent met towers. Temporary clearing during construction, primarily for the lay-down areas, and areas around turbines and met towers that will be re-vegetated will total 220 acres.

C. Except for along cleared corridor where the above-ground portions of the 34.5 kV collector line cross a stream, all clearing for the permanent Project features will be greater than 100 feet from any public roadway, waterbody, or flowing water. Within the collector line corridor, the tree canopy will be permanently removed, with shrub vegetation retained. Temporary clearing will be required within 100 feet of 13 streams along the entire corridor. The cleared corridor will be maintained as required by the DEP.

D. *Conclusion.* The configuration of the Project will allow the stream buffers required by §10.27,B,1 of the Commission's Standards to be maintained, except as noted for the collector line corridor. No Project related development will be located within 250 ft. of a lake, pond, or river. Provided that the cleared corridor for the collector line is maintained as required by the DEP, the Project is not expected to cause an undue adverse impact to the affected stream or uses in the area.

18. *Signs – §10.27, J of the Commission's Land Use Standards.* §10.27.J of the Commission's Standards provides the standards for placement and sizing of signs used by the Project.

A. Weaver Wind stated that all signs used on-site during construction will be informational signs associated with site activities, as provided for in §10.27,J,1,d and e; and that any permanent signs will be in compliance with §10.27, J.

B. *Conclusion.* Provided Weaver Wind installs signs as proposed, all signs used for the Project during construction and operation will meet the provisions of §10.27,J of the Commission's Standards.

19. *General Criteria for Approval – 12 M.R.S.A § 685-B(4) (incorporated in § 10.24 of the Commission's Land Use Standards).* In evaluating the Project, the Commission considers and applies its land use standards not considered by the DEP in its review under 38 M.R.S.A. § 489-A-1(1).

A. *Loading, parking and circulation – 12 M.R.S.A. § 685-B(4)(B) and Land Use Standard §10.24, B* specify that adequate provision must be made for transportation, including loading, parking and circulation of traffic in, on and from the site.

(1) *Conclusion.* As proposed, and as discussed and concluded in Finding #13 above, the Project will meet the standards for loading, parking and circulation in 12 M.R.S.A. § 685-B(4)(B) and § 10.24, B of the Commission's Land Use Standards.

B. *Conformance with statute, regulations, standards and plans – 12 M.R.S.A. § 685-B(4)(E) and Land Use Standard §10.24, E* specify that the Project must be in conformance with 12 M.R.S.A., Chapter 206-A and the regulations, standards and plans adopted thereto. Applicable statutory criteria for approval are discussed in Finding #19. Additionally, the Commission has more generally reviewed Title 12, Chapter 206-A and no Project components or features are out of conformance with any applicable statutory standards; for example, no spaghetti-lots are proposed. *See, e.g.*, 12 M.R.S.A. § 682-A (prohibiting the creation of spaghetti-lots). As explained more fully in Findings #1 through #18 above, the Commission has reviewed the Project under applicable regulations and standards, specifically the Commission's Land Use Standards contained in Chapter 10 of its rules, and, as articulated in the findings above, the Project conforms to these regulations and standards. Finally, in conducting its certification review and reviewing and applying the applicable statutory provisions in Chapter 206-A and the applicable regulations and standards, the Commission interpreted and applied the statutory provisions, regulations and standards in light of the CLUP. *See* 12 M.R.S.A. § 685-C(1) ("The [C]omission must use the [CLUP] as a guide in . . . generally fulfilling the purposes of this chapter.")
(1) *Conclusion.* As proposed, the Project satisfies the conformity requirement in 12 M.R.S.A. § 685-B(4)(E) and § 10.24, E of the Commission's Land Use Standards.

C. *Placement of structures on lots in a subdivision – 12 M.R.S.A. § 685-B(4)(F) and Land Use Standard §10.24,F* specify that placement of a structure on a lot in a subdivision only may be allowed after the subdivision has been approved by the Commission.
(1) *Conclusion.* As proposed, and as discussed and concluded in Finding #12 above, the Project will not involve development within a subdivision.

FINAL CONCLUSION

Based on the findings set forth above, and in addition to the conclusions set forth above, the Commission concludes that, with respect to the 23-turbine Weaver Wind Project proposal, Weaver Wind has met its burden of demonstrating that the Project conforms with the applicable regulatory and statutory requirements, and plans adopted pursuant to 12 M.R.S.A., Chapter 206-A; and meets the Commission's Land Use Standards applicable to the Project that are not considered in the DEP review.

CONDITIONS

Therefore, the Commission CERTIFIES to the DEP that Site Law Certification SLC-6, submitted by Weaver Wind, LLC for the 23-turbine Weaver Wind Project, as proposed, complies with the relevant provisions of the Commission's Land Use Standards, subject to the findings of fact and conclusions contained herein, and the following conditions:

1. *Vehicle circulation, access, and parking.* All Project traffic, access roads and parking areas must meet the applicable provisions of §10.25,D of the Commission's Land Use Standards. In particular:

A. *Vehicle circulation and access.*

(1) During construction, warning signs must be installed to alert approaching vehicles on the access roads of construction traffic entering.

(2) The flow of traffic into and out of temporary laydown areas must be managed with designated entrance and exit locations such that vehicles entering and leaving the lay-down areas do not create traffic congestion or hazards on the Project roads.

2. *Lighting.*

A. All Project permanent exterior lighting not specifically exempted by LUPC regulation must meet the standards of §§10.25,F,2,a, b and c of the Commission's Land Use Standards. Outside permanent lighting at the substation must be turned off when not in use.

B. All employees working on the Project site must be trained in lock up procedures, including a check to ensure motion-sensing lights are left in motion-sensing mode upon exiting the area. Records of this training must be maintained and made available to the Commission upon reasonable request.

C. Temporary lighting at Project access points as specified in Finding #14 must be limited to only that which is needed to provide for security during construction. The use of trailer-mounted floodlights must be limited to use during construction only, as needed to install the turbines during favorable wind conditions.

3. *Signs.* All Project signs must meet the provisions of §10.27,J of the Commission's Land Use Standards.

4. *Setbacks.* All temporary and permanent structures must be located as described in Findings #8 and #16, and as depicted on Exhibit 1A of the Site Location of Development permit application with respect to setbacks, in accordance with §10.26,D,2 of the Commission's Land Use Standards, with the following exception:

A. The two identified utility poles of the 34.5 kV collector line at the crossing of the East Branch of the Union River may be located closer than 100 feet to P-WL1 wetlands and within 75 feet of the P-SL2 stream if needed to provide adequate support for the line, in accordance with §10.26,G,5.

5. *Structure Height.* The Department of Environmental Protection finds in its Site Location of Development permitting decision that the Project turbines and towers, with proposed heights greater than 100 feet, do not have an unreasonable visual impact or impact on public safety.

6. *Clearing.* Vegetated buffers along streams must be maintained in accordance with §10.27,B of the Commission's Land Use Standards, except that where the 34.5 kV collector line corridor crosses a stream the vegetation shall be managed as required by the Maine Department of Environmental Protection.

7. *Title, Right or Interest.* The Department of Environmental Protection finds in its Site Location of Development permitting decision that Weaver Wind possesses sufficient title, right or interest to develop the Project.

This approval of a request for certification, issued to the Department of Environmental Protection, is not a final agency action. Pursuant to 5 M.R.S.A. §§ 11001 *et seq.*, a person aggrieved by a DEP Site Location of Development permit decision containing this certification determination may appeal the DEP's final agency

action to Superior Court. As part of such an appeal, a person aggrieved may seek judicial review of the components of the DEP's final agency action, including the Commission's certification determination that is incorporated into the DEP's permitting decision.

DONE AND DATED AT BREWER, MAINE THIS 8th DAY OF APRIL, 2015.

By: _____
for Nicholas D. Livesay, Executive Director

APPENDIX A

Weaver Wind Project

Certification of Allowed Use

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

PAUL R. LEPAGE
GOVERNOR

Maria Lentine-Eggett
Maine Department of Environmental Protection
106 Hogan Road, Suite 6
Bangor, ME 04401

For: Weaver Wind Project (SLC-6)
Weaver Wind, LLC
T22 MD BPP, T16 MD BPP and the Town of Osborn, Hancock County

Certification of Allowed Use

February 12, 2015

Dear Maria:

On December 24, 2014, Weaver Wind, LLC, a subsidiary of SunEdison Energy represented by its agent Normandeau Associates, Inc., submitted to the Land Use Planning Commission (LUPC) a Request for Certification for the Weaver Wind Project. The proposed Weaver Wind Project is located within the unorganized townships of T22 MD BPP, T16 MD BPP, and the Town of Osborn in Hancock County. The Request for Certification asks the LUPC to determine if the Weaver Wind Project (a) is an allowed use within the subdistricts in which it is proposed and (b) meets the land use standards established by the LUPC that are not considered in the DEP's permit review. The LUPC accepted the Request for Certification as complete for processing on February 9, 2015.

Proposal and subdistricts proposed for development

Weaver Wind, LLC proposes to construct the Weaver Wind Project, involving the construction of 23 wind turbines, installation of permanent and temporary met towers, installation of an electrical transmission line, expansion of an existing substation, construction of new access roads, and improving existing access roads. A portion of the Project is located in the Towns of Eastbrook and Aurora; however, a majority of the Project is located within unorganized or deorganized areas of the State. The subdistricts affected by the Project are the General Management (M-GN), Shoreland Protection (P-SL), and Wetland Protection (P-WL) subdistricts. The Project will be located entirely within the expedited permitting area for wind energy development.

Review criteria

The following statutory provisions are relevant to the determination of whether the Project is an allowed use in the subdistricts in which it is proposed to be located:

1. *12 M.R.S.A. § 685-B,(1-A),(B-1).* "...a permit from the commission is not required for a development of state or regional significance that may substantially affect the environment as defined in Title 38, section 482, subsection 2. A project meeting that definition is reviewed under Title 38, section 489-A-1...The Department of Environmental Protection must receive certification from the commission that the proposed

development is an allowed use within the subdistrict or subdistricts for which it is proposed…before issuing a permit."

2. *12 M.R.S.A. § 685-B(2-C). "Wind energy development; community-based offshore wind energy projects; determination deadline…*

   A. The commission shall consider any wind energy development in the expedited permitting area under Title 35-A, chapter 34-A with a generating capacity of 100 kilowatts or greater or a community-based offshore wind energy project a use requiring a permit, but not a special exception, within the affected districts or subdistricts."

Assessment of the Project as an Allowed Use in the Subdistricts in Which Development is Proposed

Based on the materials submitted by Weaver Wind, LLC, the LUPC, through its staff, determines that:

1. All parts of the Project, as proposed, are a wind energy development;
2. The portions of T16 MD BPP, T22 MD BPP, and the Town of Osborn in which the Project is proposed to be located are within the expedited permitting area for wind energy development; and
3. In the subdistricts in which the Project is proposed to be located, the (M-GN) General Management, (P-SL2) Shoreland Protection, and (P-WL) Wetland Protection Subdistrict, wind energy development is an allowed use (*See* Chapter 10 of the LUPC's Land Use Districts and Standards, Sections 10.22,A,3,c,(25); 10.23,L,3,c,(25); and 10.23,N,3,c,(17)).

Therefore, the LUPC certifies to the DEP that the Project is an allowed use in the subdistricts in which it is proposed. Neither special exception approval nor rezoning is required for the Project.

Please note that this certification is not final agency action and pertains only to the staff's determination of the use proposed by Weaver Wind. The LUPC will conduct a further review of the Request for Certification, including all application and administrative record materials to determine whether to certify to the DEP that the Project meets the land use standards established by the LUPC that are not considered in the DEP's permit review.

If you have any questions or would like to further discuss this matter, please contact Stacie Beyer at the Bangor office by email (stacie.r.beyer@maine.gov) or at (207) 941-4593.

Sincerely,

Nicholas D. Livesay, Executive Director
Maine Land Use Planning Commission

cc: James Cassida, SunEdison
Ian Broadwater, Normandeau
Stacie Beyer, LUPC