

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

August 2, 2007

A meeting of the Board of Environmental Protection was held on Thursday, August 2, 2007 at the Holiday Inn / Ground Round, Augusta, Maine. Virginia Plummer, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Nancy Anderson, Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott and Nancy Ziegler

Absent: M. Wing Goodale
Board member Nancy Anderson departed at approximately 12:30 p.m.
Board member Elizabeth Ehrenfeld departed at approximately 2:00 p.m.

<u>Staff:</u>	Bureau of Air Quality	Andrea Lani
	Bureau of Air Quality	Melissa Morrill
	Bureau of Air Quality	Eric Kennedy
	Bureau of Land and Water Quality	Greg Wood
	Bureau of Land and Water Quality	Dana Murch
	Bureau of Land and Water Quality	Brian Kavanah
	Bureau of Land and Water Quality	Jennifer Cayer
	Bureau of Land and Water Quality	Robin Clukey
	Bureau of Remediation and Waste Management	John James
	Bureau of Remediation and Waste Management	Scott Whittier

Others: David P. Littell, Commissioner
Cindy Bertocci, BEP Executive Analyst
Jan McClintock, Assistant Attorney General
Peggy Bensinger, Assistant Attorney General (Androscoggin River and Downeast LNG matters only)
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 5:00 p.m.)

The Board convened the meeting with a public hearing at 9:00 a.m. in the matter of:

CHAPTER 152, CONTROL OF EMISSIONS OF VOLATILE ORGANIC
COMPOUNDS FROM CONSUMER PRODUCTS / AMENDMENTS
Staff: Andrea Lani, Bureau of Air Quality

I. REGULAR AGENDA ITEMS

1. ANDROSCOGGIN RIVER APPEAL(s) // Verso, Jay ME 0001937 and W000623-5N-F-R; Rumford Paper Company ME 0002054 and W000955-5N-G-R; Livermore Falls Publicly Owned Treatment Works ME 0100315 and W 002654-5L-G-R; and Gulf Island Pond-Deer Rips Hydro Project #L-17100-33-O-N (Deliberative session)
Staff: Cindy Bertocci, BEP Executive Analyst
Dana Murch, Bureau of Land and Water Quality
Brian Kavanah, Bureau of Land and Water Quality

The Board reconvened at approximately 1:00 p.m. to consider remainder of the agenda

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Commissioner David Littell reported the following:

Legislative: Commissioner Littell provided Board members with a summary of the 123rd Legislative Session concerning bills passed related to the Department.

Coal Gassification: The Department was briefed recently concerning a proposal for a coal gasification and diesel facility at the former Maine Yankee location in Wiscasset. The company anticipates submitting an application in the future (Fall 2008 – 2011), and the Department believes that this project may generate a request for BEP jurisdiction. Commissioner Littell noted that this proposal is the same type of coal plant that Maine has contended should be built in mid-west or south because of its lower mercury emissions.

Wind Power Task Force: The Commissioner is serving on the Governor's Wind Power Task Force. He noted that the Department hopes to gain insight into the application of DEP regulations concerning avian mortality and other potential impacts from windpower turbines.

QUESTIONS:

Board member Nancy Ziegler: asked about a site visit of the Mars Hill facility.

Commissioner Littell noted that he is scheduled to visit the site on September 24th and invited Board members to join that tour. Terry will follow-up with the Board concerning this scheduling matter.

QUESTIONS:

Board member Matt Scott asked about the effective date of the in-stream flow rules (Chapter 587).

Commissioner Littell explained that the rules will be in effect on August 24, 2007.

Board Chair Plummer asked about the status of any tidal power projects.

Commissioner Littell stated that the Department would coordinate through staff member Dana Murch for an update at a future meeting.

B. COMMENTS FROM THE BEP CHAIR:

Board Chair Plummer thanked Board members and staff for their work on the Downeast LNG public hearing.

C. EXECUTIVE ANALYST COMMENTS: NONE

D. BOARD CALENDAR: REVIEWED

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS

Board voted (8-0-0-2) to approve consent agenda items 1, 2, 3, 4, 5, and 8 as presented.

Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board members Nancy Anderson and M. Wing Goodale were absent.

1. SARGENT HOLDINGS, LLC SARGENT GRAVEL, LLC, Harrison – Administrative Consent Agreement (BLWQ - Land)
2. APPLIED FORESTRY, INC., Kingfield - Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
3. M. L. ROGERS, INC., Standish – Administrative Consent Agreement (BLWQ – Land)
4. EDWARD SEGOOL and ANNE SEGOOL, Standish – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
5. RICHARD DELESKEY, MELISSA DELESKEY, New Sharon – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
8. JOHN LANE, Saco – Administrative Consent Agreement and Enforcement Order (BLWQ - Water)

Board voted (8-0-0-2) to approve consent agenda items 6 as presented, and 7 as amended.

Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board members Nancy Anderson and M. Wing Goodale were absent.

6. WADLEIGH'S INC., Kennebunk – Administrative Consent Agreement and Enforcement Order (BRWM)
7. GACK, INC. d/b/a JOHN'S DRY CLEANING, Lewiston – Administrative Consent Agreement and Enforcement Order (BRWM)
*The cross-reference in paragraph 10 on page 5 was corrected to read:
"...specific violations listed in paragraph 4 of this Agreement..."*

III. Regular Agenda

2. CHAPTER 872, EXEMPTIONS FROM THE BAN ON SALE OF MERCURY SWITCHES, RELAYS AND MEASURING DEVICES / Section 9 AMENDMENTS (final adoption)

Staff: John James, Bureau of Remediation and Waste Management

The Board voted (7-0-1-2) on a motion to adopt amendments to Chapter 872, Exemptions from the Ban on Sale of Mercury Switches and Measuring Devices, Section 9. The Board voted pursuant to 38 M.R.S.A. sections 341-D(1-B) and 1661-C(8).

Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board member Sue Lessard recused. Board members Nancy Anderson and M. Wing Goodale were absent.

3. CHAPTER 139 TRANSPORTATION CONFORMITY / NEW (adoption)

Staff: Melissa Morrill, Bureau of Air Quality

The Board voted (7-0-1-2) on a motion to adopt Chapter 139 Transportation Conformity as presented which establishes criteria and procedures for interagency consultation to determine whether transportation activities conform to the State Air Quality Implementation Plan. The vote was taken pursuant to 38 M.R.S.A. sections 341-D (1-B), 585 and 585-A.

Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board member Sue Lessard recused. Board members Nancy Anderson and M. Wing Goodale were absent.

4. CHAPTER 156, CO2 BUDGET TRADING PROGRAM / NEW (post to public hearing)
Staff: Jeff Crawford, Bureau of Air Quality

The Board voted (8-0-0-2) on a motion to post Chapter 156, CO2 Budget Trading Program / New to public hearing as presented on Thursday, September 6, 2007 at 1:00 p.m. and to establish Thursday, September 20, 2007 as the deadline for written public comment. The vote was taken pursuant to 38 M.R.S.A. sections 341-D (1-B) and 585-A.

Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board members Nancy Anderson, and M. Wing Goodale were absent.

5. CHAPTER 157, CO2 BUDGET TRADING PROGRAM WAIVER AND SUSPENSION / NEW – Major substantive (post to public hearing)
Staff: Jeff Crawford, Bureau of Air Quality

The Board voted (8-0-0-2) on a motion to post Chapter 157, CO2 Budget Trading Program Waiver and Suspension / New to public hearing as presented on Thursday, September 6, 2007 at 1:00 p.m. and to establish Thursday, September 20, 2007 as the deadline for written public comment. The vote was taken pursuant to 38 M.R.S.A. sections 341-D (1-B) and 585-A.

Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board members Nancy Anderson, and M. Wing Goodale were absent.

6. QUODDY BAY LNG, LLC, QUODDY BAY PIPELINE LLC, -- PERRY Site Location of Development L-23600-26-A-N, Natural Resources Protection Act L-23600-TG-B-N, Air Emissions A-975-71-A-N, Waste Discharge and Storm Water W-9010-50-A-N, Section 401 Water Quality Certification and Coastal Zone Management (Board Jurisdiction)

Staff: Robin Clukey, Bureau of Land and Water Quality
Staff: Greg Wood, Bureau of Land and Water Quality
Staff: Eric Kennedy, Bureau of Air Quality

The Board voted (8-0-0-2) on a motion to assume licensing jurisdiction over the applications of Quoddy Bay LNG, LLC, Quoddy Bay Pipeline LLC for a liquefied natural gas import and storage facility in Pleasant Point Reservation and Perry and Pipeline Project in Perry, Pembroke, Charlotte, Cooper, Alexander and Princeton. The vote was taken pursuant to 38 M.R.S.A. Section 341-D(2).

Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board members Nancy Anderson, and M. Wing Goodale were absent.

7. DOWNEAST LNG, DOWNEAST PIPELINE LLC// ROBBINSTON Site Location of Development L-23432-26-A-N, Natural Resources Protection Act L-23432-TG-B-N, Air Emissions A-000960-71-A-N, Section 401 Water Quality Certification and Coastal Zone Management (Request to re-open the hearing record)

Staff: Cynthia S. Bertocci, BEP Executive Analyst

Staff: Jennifer Cayer, Bureau of Land and Water Quality

The Board voted (6-1-0-3) on a motion to re-open the record to allow for submission of new or amended evidence on the following: compensation plan for impacts to wetlands (vernal pools), compensation plan for impacts to significant wildlife habitat (shorebirds, inland waterfowl and wading birds), and the location of the tugs when not actually engaged in assisting the transit of LNG vessels. The motion was contingent upon the applicant agreeing that the Board would have at least 60 additional days to process the application. The vote was taken pursuant to 38 M.R.S.A. section 341-D (2) and 06-096 CMR Chapter 30.

Board members Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Matt Scott, and Nancy Ziegler voted to support the motion. Board member Virginia Plummer opposed. Board members Nancy Anderson, Elizabeth Ehrenfeld and M. Wing Goodale were absent.

Next Regular Meeting –Thursday, August 16, 2007 – Augusta Civic Center