

**BOARD OF ENVIRONMENTAL PROTECTION  
Meeting Minutes**

August 19, 2010

A meeting of the Board of Environmental Protection was held on Thursday, August 19, 2010, at the Holiday Inn / Ground Round, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 12:30 p.m. with the following individuals present:

**Board:** Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, Matt Scott, Lissa Widoff, Frank Woodard and Nancy Ziegler.

Board member P. Andrews Nixon was absent.

**Staff:** Andrea Lani, Bureau of Remediation and Waste Management

**Others:** Beth Nagusky, Office of the Commissioner  
Cynthia S. Bertocci, BEP Executive Analyst  
Jan McClintock, Assistant Attorney General  
Terry Hanson, BEP Administrative Assistant

***(Meeting adjourned at approximately 5:30 p.m.)***

**I. DEPARTMENTAL**

**A. COMMISSIONER'S COMMENTS:**

Beth Nagusky explained she was attending today's meeting on behalf of the Commissioner. Mr. Littell has been nominated by the Governor to be a PUC Commissioner. His confirmation hearing is this afternoon before the Joint Standing Committee on Utilities and Energy. Ms. Nagusky also noted that the Governor's nominee for appointment to the Board, Mr. Paul Paydos, was before the Joint Standing Committee on Natural Resources earlier today and received a unanimous vote in support of his nomination. It is anticipated that he will be before the Senate next week for confirmation.

Rulemaking: As a result of changes at the Commissioner's Office and comments received at public informational sessions, it was decided to postpone action on the Storm Water and Site Law rules.

Gulf Oil Spill: Several DEP staff members participated in the response to the oil spill in the Gulf of Mexico. We have now entered the demobilization phase. Thanks to the DEP staffers who willingly volunteered their service to clean up and contain the spill.

Songo River: The DEP in partnership with the Department of Conservation will implement a boat inspection program for all boats travelling upstream through the Songo River Lock. Lakes Environmental Association (LEA) volunteers along with paid boat inspectors will examine boat motors and hulls. It is hoped that this effort will slow the migration of milfoil to Sebago Lake, Brady Pond and Long Lake. John McPhedran is DEP's lead staffer. He will continue working with LEA and DOC to monitor and evaluate this milfoil situation.

Comments on Water Quality Report: The federal Clean Water Act requires that the Department submit a 305b Report. The 2010 Integrated Water Quality Monitoring and Assessment Report is prepared every two years and is based on information gathered by the DEP along with other state, federal, tribal, and local governmental agencies; non-governmental organizations; and volunteer monitoring groups. DEP analyzes the data to assess the capacity of Maine waters to support their designated uses of drinking water, fishing, recreation, and their ability to sustain aquatic life. This report represents a water quality snapshot of the health of Maine's lakes, streams, rivers, estuaries and coastal waters. Deadline for comments is August 27<sup>th</sup>.

Delaware Summit: At a recent summit in June, RGGI state agency heads representing the transportation, energy and environment sectors (plus their counterparts in Pennsylvania and Washington, D.C.) met and entered into an agreement to work cooperatively toward reductions in greenhouse gas emissions from the transportation sector. The Transportation Climate Initiative (TCI) is ready to submit a grant request to fund an electric vehicle comprehensive plan and study for

the 12 jurisdictions which comprise the initiative. Electrification of the transportation sector is also one of the recommendations of the Ocean Energy Task Force.

- 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 (9-0-0-1) to approve consent agenda item 1 as presented.

The vote was taken pursuant to 38 M.R.S. A. §341-D(6).

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, Matt Scott, Lissa Widoff, Frank Woodard, and Nancy Ziegler voted to support the motion. Board member P. Andrews Nixon was absent.*

1. FOX ISLANDS WIND, LLC, Vinalhaven – Administrative Consent Agreement (BLWQ – Land)

## II. **Regular Agenda**

1. UNITED STATES SURGICAL CORP. – MALLINCKRODT LLC / APPEAL OF DESIGNATION OF UNCONTROLLED HAZARDOUS SUBSTANCE SITE AND ORDER, HOLTRACHEM FACILITY (Deliberation and Decision)

Staff: Cynthia S. Bertocci, BEP Executive Analyst

The Board voted (6-0-0-4) on a motion to approve the revised Board Order concerning the appeal submitted by United States Surgical Corporation and Mallinckrodt LLC. The Board order denies the appeal and incorporates in its entirety the Commissioner's November 24, 2008 Order designating the Site and Uncontrolled Hazardous Substance Site and ordering remediation of the site with the modifications set forth in the Board's Decision.

The vote was taken pursuant to 38 M.R.S.A. §§1361-1371, 5 M.R.S.A. §§ 9051-9064, and 06-096 CMR Chapter 30.

*Board members Elizabeth Ehrenfeld, Lissa Widoff, Richard Gould, Susan M. Lessard, Frank Woodard and Nancy Ziegler voted to support the motion. Board members M. Wing Goodale, Don Guimond, P. Andrews Nixon, and Matt Scott did not participate in the proceeding and were absent.*

**The Board Reconvened at approximately 1:00 p.m. for a public hearing in the matter of: Chapter 882, Designation of Bisphenol "A" as a Priority Chemical and Regulation of Bisphenol "A" In Children's Products**

*Next Regular Meeting –Thursday, September 2, 2010 – Holiday Inn / Ground Round*