

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

September 15, 2011

A meeting of the Board of Environmental Protection was held on Thursday, September 15, 2011, at Civic Center, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Donald Guimond, Susan M. Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff, and Frank Woodard

There is one vacancy.

Staff: Mike Mullen, Bureau of Remediation and Waste Management

Others: Patricia Aho, Acting Commissioner
Cynthia S. Bertocci, Executive Director
Peggy Bensinger, Assistant Attorney General
Terry Dawson, BEP Administrative Assistant
Warren Brown, BEP Consultant

(Meeting adjourned at approximately 01:30 p.m.)

I. DEPARTMENTAL**A. COMMISSIONER'S COMMENTS:** Acting Commissioner Aho reported the following:1] Stakeholder work:

- Shoreland Zoning: The Department is currently reviewing the shoreland zoning guidelines (Chapter 1000) in an effort to clarify and streamline what is currently in place. Following the stakeholder process, a report will be submitted to the Legislature with suggestions for improvements to the model guidelines.
- Medical Sharps: The stakeholder group considering the medical sharps issue will focus discussions on expanding a return program. A northern Maine medical sharps return program at Carey Medical Center has achieved much success with this initiative. This group will work toward identifying program improvements through a voluntary collaborative approach with the goal of expanding the program state-wide.
- Biomedical Waste: A biomedical waste stakeholder group is planning its first meeting and will begin discussions on topics identified by the Board during the recent rulemaking process.

2] Wallagrass: The Department will host a second community meeting in Wallagrass on Thursday, September 29th. Staff will provide information related to ongoing remediation efforts and answer questions from the public. The Department will also seek information related to additional needs of the community.

3] Board Service Acknowledgement: Service plaques were presented to Frank Woodard, Lisa Widoff, P. Andrews Nixon, Matt Scott and Don Guimond in appreciation for their commitment and dedicated service to the citizens of Maine as members of the Board of Environmental Protection.

B. COMMENTS FROM THE BEP CHAIR: None

C. EXECUTIVE ANALYST COMMENTS: None

D. BOARD CALENDAR: The calendar was reviewed and it was noted that the meeting of October 6th will be held at the Department of Public Safety.

E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING: Reviewed.

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS:

1. MINUTES BEP Meeting June 16, 2011 (approval)

The Board voted (8-0-1-0) to approve consent agenda item 1 as presented.

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

Board members M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Frank Woodard voted to support the motion. Board member Elizabeth Ehrenfeld abstained. There is one vacancy.

2. MINUTES BEP Meeting July 7, 2011 (approval)

The Board voted (9-0-0-0) to approve consent agenda item 2 as presented.

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

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Frank Woodard voted to support the motion. There is one vacancy.

3. MINUTES BEP Meeting July 21, 2011 (approval)

The Board voted (7-0-2-0) to approve consent agenda item 3 as presented.

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

Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Susan M. Lessard, Matt Scott, Lissa Widoff and Frank Woodard voted to support the motion. Board members M. Wing Goodale and P. Andrews Nixon abstained. There is one vacancy.

4. MINUTES BEP Meeting July 28, 2011 (approval)

The Board voted (6-0-3-0) to approve consent agenda item 3 as presented.

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

Board members M. Wing Goodale, Richard Gould, Susan M. Lessard, Matt Scott, Lissa Widoff and Frank Woodard voted to support the motion. Board members Elizabeth Ehrenfeld, Don Guimond and P. Andrews Nixon abstained. There is one vacancy.

5. MINUTES BEP Meeting August 8, 2011 (approval)

The Board voted (7-0-2-0) to approve consent agenda item 3 as presented.

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

Board members M. Wing Goodale, Richard Gould, Susan M. Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Frank Woodard voted to support the motion. Board members Elizabeth Ehrenfeld and Donald Guimond abstained. There is one vacancy.

II. Regular Agenda

1. CHAPTER 375, SECTION 10. CONTROL OF NOISE – SOUND LEVEL LIMITS AND MEASUREMENTS FOR WIND TURBINE PROJECTS - CITIZEN INITIATED RULEMAKING (provisional adoption)

Staff: Mike Mullen, Acting Director, Bureau of Land and Water Quality

The Board voted (5-4-0-0) to provisionally adopt amendments to Chapter 375, Section 10, Control of Noise. Amendments include a new Section I. Sound Level Standards for Wind Energy Developments which sets sound level limits for daytime and nighttime operations, methodology for determining short duration repetitive sound, predictive modeling requirements, variance provisions, submission requirements, sound measurement and data collection/reporting protocols. The vote incorporated the following amendments to the draft rule that was proposed:

Modifications to the draft proposed rule included:

- Errata sheet as presented related to the draft proposed rule and the basis statement.
- Subsection 4(a): ...a 5 dBA penalty shall be **arithmetically** added to each...
- Subsection 7(c)1. ... that **may** affect in-flow airstream **turbulence**; that can exceed the design limits for normal operation of the turbines.
- Subsection 7(c)9. Inclusion, at the discretion of the Department, **of** an addition... and ...of 2 to 3 dBA **for** coastal developments...
- Subsection (8)(b)1. ... measurement system used shall meet all of the Type **± 0** or **± 1** performance requirements...
- Subsection (8)(b)2. ... shall also meet the Type **± 0** or **± 1** performance requirements...
- Subsection (8)(b)6. Anemometer(s) used for surface (10 meter (m)) **(32.8 feet)** wind...
- Subsection (8)(d)4. ... anemometers at a 10-meter height **(32.8 feet)** above the ground...
- Subsection (8)(e)3. All audio data collected shall be retained by the wind energy development for a period of ~~two~~ **four** weeks from the date of collection...
- Subsection (8)(e)8(b). The surface wind speed (10 meter height) **(32.8 feet)**...

The vote was taken pursuant to 38 M.R.S. A. §341-D(1-B) and 5 M.R.S.A §8055.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Matt Scott, Lissa Widoff and Frank Woodard voted to support the motion. Board members Richard Gould, Don Guimond, Susan Lessard and P. Andrews Nixon voted opposed. There is one vacancy.

Next Regular Meeting –Thursday, October 6, 2011 – location to be determined, Augusta