

Saddleback Ridge Wind, LLC // Natural Resource Protection Act (NRPA) and Site Location of Development Act applications

- Alan Stearns, Deputy Director, of Bureau of Parks and Lands dated December 9, 2010 email to Eric Ham

Ham, Eric

From: Stearns, Alan
Sent: Thursday, December 09, 2010 12:36 PM
To: Ham, Eric; Margerum, Mark T
Cc: Hallowell, Dawn; 'Terry DeWan'; Farnham, Bruce; Harris, Will; 'Rufus E. Brown'; Glidden, Tim; LeVert, Michael; Hunt, Ron; Best, Gary; 'Andy Novey'; Andy Novey; 'palmer.jf@gmail.com'; 'jbrowne@verillidana.com'; Eickenberg, Katherine; Dave Publicover; 'Cathy Johnson'; Kelly Boden
Subject: BPL COMMENTS: Saddleback Ridge Wind Reviews (Carthage)

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SCENIC IMPACTS, GENERALLY:

- DEP reports that DEP has commissioned a consultant for scenic review. Thus BPL has not undertaken rigorous scenic review of the application, but notes multiple jurisdictional impacts to multiple significant BPL viewpoints.
- I thought we collectively were moving toward some level of uniformity of scenic methodology, to allow somewhat objective comparisons of scenic impacts, to avoid the struggle of case-by-case seemingly subjective application of Maine's new scenic statutes. I was expecting the precedent of the Woodstock project (tabular conclusions by DEP noting impacts of concern to BPL park properties) to guide future submissions with comparable impacts to comparable BPL properties. Without comparisons based on precedent, BPL's ability to comment on the "reasonableness" of scenic impacts is nearly impossible, or in the alternative fully subjective. Thus BPL urges DEP to listen closely to public input, since public input on "reasonableness" is as valuable as agency input, if formal methodological constructs are lacking.
- Both the public and agencies would benefit from review of DEP's consultant's report early in the process, if the DEP consultant's report will provide "writing on the wall" with respect to attempts at objective precedent or comparison. Late submission of DEP consulting reports, or limited public promulgation of DEP consulting reports, can frustrate the ability of the public or agencies to comment on key likely findings on key project issues.
- DEP should ask the applicant or DEP's consultant to characterize impacts, if any, from the Mount Blue State Park Hedgehog Hill multi-use trail
- DEP should ask the applicant or DEP's consultant to characterize impacts, if any, from the South Shelter Group Camping Area in Mount Blue State Park (Webb Lake section).
- BPL does not find sufficient statutory basis to request an analysis of views from the water of Webb Lake near but not precisely upon the State Park beach, yet our findings should not be conclusive if debatable.
- DEP should ask the applicant or DEP's consultant to further distinguish or describe the impacts from Center Hill Overlook. The application reads as if views from the vehicle access area are described, but not views from associated pedestrian trails.
- DEP should ask the applicant or DEP's consultant to characterize impacts from the scenic turnout at the "Farmhouse". This turnout is part of Mount Blue State Park, across the street from the park manager's residence (the Farmhouse), and a key gateway to the park. It may or may not be within eight miles of the turbines.

PERKINS LOTS SCENIC IMPACT:

- BPL agrees that there is no formal public access to this property. Per recent verbal conversations, the current landowner allows hiking on the trail, but the current landowner specifically has not authorized trail maintenance or new trail promotion materials. The landowner has not objected to "remnant" trail promotion such as previously published brochures or narratives.
- BPL has historically sought to acquire access to this property, to acquire the Bald Mountain Trail or its larger parcel from a willing seller. While there is not currently a willing seller, BPL will periodically seek to open

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dialog. It is not my impression that construction of the proposed wind turbines would be reason to stop dialog on acquisition, due to the popularity of the trail, and predicted continued popularity. Because BPL acquisitions require strong public support, BPL urges public testimony to DEP to confirm that conservation acquisition of this trail and other land in this region would remain a priority even upon approval of the pending windpower proposal.

- In summary BPL has previously expressed a policy concern which may or may not have jurisdictional relevance to DEP that windpower development will slow momentum for conservation acquisitions in some landscapes. Absent public disagreement, BPL does not express that concern for this project. Certainly a contribution of "tangible benefits" toward conservation acquisitions would tip the scale toward continued momentum.
- The statutes guiding scenic designations on public reserve land do not require a demonstration of public access. This is important, since many parcels of public reserve land – especially in the north woods – do not have deeded public access yet have amazing scenic and recreational importance. The wind statutes guiding other scenic viewpoints, however, do require a demonstration of public access. In summary, BPL believes that the lack of public access to the Perkins lot is informative, but not determinative. BPL's decision acquire this in 2004 lot despite lack of access, combined with the past landowner's history of specifically blocking public access, all argue for sensitivity regarding regulatory "shadows" cast on adjacent landowners by this recent conservation acquisition. Noting the visual simulations and other material supplied by the applicant, and noting historic abutter sensitivities, BPL concludes that the visual impact to the Perkins Lot is not a reason to reject the pending application. Our conclusion might be different upon a proposal to locate turbines on the summit of Saddleback Mountain.
- Similarly, upon any proposal to locate turbines on the summit of Saddleback Mountain, and the disposition of that publicly-owned summit, our conclusions might be different regarding continued momentum for land conservation momentum in the vicinity.

CUMULATIVE IMPACT:

- BPL has not researched what approach DEP takes to cumulative visual impact under the windpower laws. DEP and/or LURC seem to have introduced the issue when considering the nature of the development and context as criteria for scenic review, in addition to other legislative or regulatory references. At the same time, "incrementalism" is floated by developers and some parties as a justification for dense development of turbines, thus the pending application and its impacts might be viewed as more significant than when viewed in isolation or solely in today's context. LURC practice is clearly not shaped, not defined, evolving, per staff correspondence on file and copied to DEP. While the pending application may be arguably reasonable from a scenic perspective, there seems to be the clearly foreseeable likelihood of expansion of the number of turbines to the north, to the south, or on other ridgelines surrounding Webb Lake.
- DEP in its permit should address the seeming likelihood of incremental and cumulative impacts to significant state park viewpoints with high expectations of scenic quality.

TANGIBLE BENEFITS

- BPL generally defers to LURC staff analysis of the new law, copied to DEP staff, by email memo dated November 9, 2010. As such, the legislature appears to have removed tools that arguably previously existed for DEP to affirmatively shape the size and nature tangible benefit packages.
- The developer voluntarily proposes tangible benefits above and beyond the minimum requirements of the new law, and more broadly than the new law's defined limitations on "land conservation/natural resources". BPL has agreed to accept a contribution, yet notes we would have limited ability to affirmatively shape or expect the offering, thus acceptance is our gracious option with no implied or actual endorsement of the project or application. At the same time, we can't help but note that this developer has now twice struck a balance between windpower and land conservation and recreation that is seemingly more generous than required by law or offered by other developers of other windpower projects.
- The proposal of \$60,000 toward a new playground at Mount Blue State Park was well-informed by conversations during the summer of 2010. In November of 2010 the Maine voters strongly supported a bond ballot that will provide capital funds for Maine State Parks. This playground has been a high priority for next-available funding, and therefore will likely proceed fully funded irrespective of the pending windpower contribution. As such, BPL recommends that this offer be restructured as a more general contribution to the Bureau, or more specifically for land acquisitions in the vicinity of Mount Blue State Park. Such a contribution would be routine and respected in

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the context of comparable development proposals under other laws, over the years, and in the context of evolving precedent and practice for windpower, especially projects pending or approved by LURC.

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From: Ham, Eric

Sent: Wednesday, December 08, 2010 9:19 AM

To: Timpano, Steve; Cordes, Robert; Boucher, Dave; deMaynadier, Phillip; Hodgman, Tom; Swartz, Beth; DePue, John; Dube, Norm; 'Warren Brown'; Hopeck, John T; Waddell, David A; Dumont, Aaron A; Uhuad, Gene; Rocque, David; Stearns, Alan; Cameron, Don S.; LeVert, Michael; Dorrer, John; Tannenbaum, Mitchell; Mills, Dora A.

Cc: Margerum, Mark T; Hallowell, Dawn

Subject: Saddleback Ridge Wind Reviews

All,

Thank you for the time and effort that has already been placed into reviewing the Saddleback Ridge Wind project and thanks to those that have already submitted comments. As most of you know, the Deadline for review is December 15, 2010. The Department's review process has changed slightly so it is imperative that your comments come in as close to that date as possible. If a public hearing is not granted, the Department plans to post all reviews, allow for approximately 1 month for review of those comments, and then hold the public informational meeting. The hope is that more information can be shared at the public meeting than in previous projects.

I have moved on to a different position with the State of Maine and will no longer be the project manager for this project. Mark Margerum will be taking over and should receive your comments and correspondence.

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