STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

Susan M. Lessard, Chair

Cynthia S. Bertocci
Executive Analyst

Terry Dawson

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

April 11, 2012

A meeting of the Board of Environmental Protection was held on Wednesday, April 11, 2012, at the State Planning Office, Room 110, 19 Union Street, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: Alvin Ahlers, Robert Foley, M. Wing Goodale, Richard Gould, and Susan M. Lessard.

Elizabeth Ehrenfeld was absent.

Staff: Mark Margerum, Bureau of Land and Water Quality
Jessica Damon, Bureau of Land and Water Quality
Mark Bergeron, Bureau of Land and Water Quality
Jim Beyer, Bureau of Land and Water Quality
Karen Knuuti, Bureau of Remediation and Waste Management
Paula Clark, Bureau of Remediation and Waste Management

Others: Patricia Aho, Commissioner
Cynthia S. Bertocci, BEP Executive Analyst
Amy Mills, Assistant Attorney General, morning session
Nancy Macirowski, Assistant Attorney General, afternoon session
Terry Dawson, BEP Administrative Assistant

(Meeting adjourned at approximately 3:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS:

Bureau Director: The Department has hired a new director to lead the Bureau of Land and Water Quality. Michael "Mick" Kuhns rejoined the department on April 2. Mick served at DEP from 1985 until 1999 when he left to work in the private sector including at Dragon Products, Irving Tanning and most recently at Tasman Leather as the Director of Sustainability. He also was on the Maine State Chamber's board, but will be stepping down to join DEP. His extensive understanding of the department and environmental issues and policies combined with his private sector experience will ensure we continue to serve the regulated community while providing critical environmental protections.

Legislative:

- Provisionally Adopted Rules: The Legislature has passed all three major substantive rules as provisionally adopted by the Board. These were passed as emergency; therefore, the Department anticipates seeking Board consideration for final adoption at the May 3rd regular meeting.
- Metal Mining Regulations: Legislation was introduced last month related to metal mining. The legislation proposes to create a comprehensive statutory framework to replace current mining law and rules and designate DEP as the agency responsible for permitting (regulating development, operation and closure). If this legislation is passed, the Department will be responsible for developing major substantive rules that include such components as: standards for exploration, advanced exploration, construction, operation, closure, post-closure monitoring, reclamation and remediation. It is anticipated that draft proposed rules will be considered by the Board sometime in 2013.
- State Planning Office: The Appropriations Committee recently approved the supplemental budget package concerning reassignment of duties and responsibilities of the State Planning Office. Recommendations provided by the special task force were endorsed by the Committee resulting in the transfer of the recycling program to the Department of Environmental Protection.

Offshore Wind: The Department anticipates a decision sometime this month concerning the potential siting of an offshore wind power project in Maine. State Oil is the development company and Maine is one of the locations currently being considered for this project.

QUESTIONS: Board member Richard Gould asked how many positions would be transferred to the Department as a result of obtaining the recycling program.

Commissioner Aho explained that the duties and funding would be transferred and that the Department would not acquire any additional human resources.

B. COMMENTS FROM THE BEP CHAIR: NONE

C. EXECUTIVE ANALYST COMMENTS: Governor LePage has nominated Thomas Eastler to fill the vacant seat on the Board. Mr. Eastler appeared before the Joint Standing Committee on Natural Resources and received a unanimous vote of support for his nomination. It is anticipated that Mr. Eastler will navigate the remainder of the process in time to participate in the May 3rd meeting.

D. BOARD CALENDAR: REVIEWED
E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING: Reviewed.
F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS:

None

II. Regular Agenda

1. EVERGREEN WIND POWER II AND MAINE GENLEAD LLC // Site Location of Development Act and Natural Resources Protection Act Permits L-24572-24-C-N, L-24572-TF-D-N, L24572-IW-E-N, L-24572-24-F-N, L-24572-TF-G-N OAKFIELD II (appeal submitted by Lynne Williams on behalf of Protect Our Lakes and Donna Davidge)

   Staff: Jessica Damon, Bureau of Land and Water Quality
   Mark Margerum, Bureau of Land and Water Quality
   Mark Bergeron, Bureau of Land and Water Quality

   The Board voted (5-0-0-1) on a motion to deny the appeal and request for public hearing submitted by Protect our Lakes and Donna Davidge regarding the Site Law and Natural Resources Protection Act permit approving construction and operation of a 150 megawatt wind energy generation facility in the Towns of Oakfield, Chester, Woodville, Mattawamkeag, Molunkus Township, Macwahoc Plantation, North Yarmouth Academy Grant, Reed Plantation, Glenwood Plantation, T3R3 WELS, T4R3 WELS and Linneus. The vote affirmed the Commissioner's decision approving the construction and operation of the Oakfield II Wind Project as issued in Department Order L-24572-24-C-N, L-24572-TF-D-N, L24572-IW-E-N, L-24572-24-F-N, L-24572-TF-G-N.

   The Board voted pursuant to 38 M.R.S.A. § 341-D(4); 38 M.R.S.A. § 481 to 490 Site Location of Development Law; 38 M.R.S.A. § 480-A to 480-HH Natural Resources Protection Act; 35-A M.R.S.A. §3451-3455 Maine Wind Energy Act; and Chapter 2 Rules Concerning the Processing of Application and Other Administrative Matters.

   Board members Alvin Ahlers, Robert Foley, M. Wing Goodale, Richard Gould and Susan Lessard voted to support the motion. Board member Elizabeth Ehrenfeld was absent. There is one vacancy on the Board.

2. VERSO BUCKSPORT / Special Waste Landfill Permit #S-007713-WD-BB-A (appeal of BEP Chair ruling concerning standing as an aggrieved person submitted by Joseph and Michele Greenier)

   Staff: Cynthia S. Bertocci, BEP Executive Analyst
   Karen Knuuti, Bureau of Remediation and Waste Management

   The Board voted (5-0-0-1) on a motion to deny the appeal and request for public hearing and to affirm the Chair's ruling (dated March 8, 2012) which dismissed the appeal submitted by Joseph and Michele Greenier of Department Order #S-007713-WD-BB-A approving an

increase in the elevation of Verso's special waste landfill in Bucksport. The vote upholds the Chair's ruling that Joseph and Michele Greenier did not submit evidence sufficient to demonstrate standing to appeal the Commissioner's licensing decision.

The vote was taken pursuant to 38 M.R.S.A. sections 341-D(4) and 344 and Chapter 2, Rules Concerning the Processing of Applications and Other Administrative Matters.

Board members Alvin Ahlers, Robert Foley, M. Wing Goodale, Richard Gould and Susan Lessard voted to support the motion. Board member Elizabeth Ehrenfeld was absent. There is one vacancy on the Board.