

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

March 21, 2013

A meeting of the Board of Environmental Protection was held on Thursday, March 21, 2013 at the Civic Center, 76 Community Drive, Augusta, Maine. Robert Foley, Chair, called the meeting to order at 9:00 am with the following individuals:

Board: Present: Alvin Ahlers, Thomas Eastler, Elizabeth Ehrenfeld, Robert Foley, Richard Gould, and Susan M. Lessard.
Absent: Board member M. Wing Goodale was absent.

Staff: Mark Bergeron, Director Division of Land Resources Regulation
James Beyer, Bureau of Land and Water Quality

Others: Patricia Aho, DEP Commissioner
Peggy Bensinger, Assistant Attorney General
Cynthia S. Bertocci, BEP Executive Analyst
Ruth Ann Burke, BEP Clerk and Administrative Assistant

I. Departmental**A. Commissioner's Comments:**

- **Budget:** Commissioner Aho noted that in the supplemental budget the Appropriations Committee took another \$500,000 from the Department on top of the \$250,000 taken previously for a total of \$750,000 for fiscal year 2013 which ends on June 30th. Commissioner Aho will be attending a work session on the Department's biennial budget this afternoon.
- **DEP Staff Day:** Commissioner Aho noted that the Department held its annual staff meeting on March 15th. The major award recipients were:
 - Steve Eufemia Supervisor Award: Mike Mullen, Land Licensing Coordinator
 - Commissioner's Award: Rebekah Koroski, member of the cost recovery unit
 - Customer Service Award: Tammy Gould, head of information technology resources
 - Evelyn Jephson Award: Troy Smith, hydrogeologist

B. Comments from the BEP Chair: The Chairman extended his congratulations to the staff members honored for their outstanding work.

C. Executive Analyst Comments: None

D. Board Calendar: Reviewed. No meeting on April 4, 2013.

E. Departmental Orders / Applications Accepted for Processing: Reviewed

F. Executive Session: None

II. Consent Agenda Items:

1. **BEP Meeting Minutes:** February 7, 2013 (approval)

The Board voted (5-0-1-1) on a motion to approve the minutes for February 7, 2013 with a correction to page 1 to indicate that Susan M. Lessard was not present at the February 7th meeting.

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

Board members Alvin Ahlers, Thomas Eastler, Elizabeth Ehrenfeld, Robert Foley, and Richard Gould voted to support the motion. Board member Susan M. Lessard abstained. Board member M. Wing Goodale was absent.

III. Regular Agenda Items:

1. Passadumkeag Windpark LLC / Appeals of Department Denial of Applications #L-25597-24-A-N and #L-25597-TH-B-N by Passadumkeag Windpark LLC and Penobscot Forest LLC

Staff: Mark Bergeron, Director Division of Land Resources Regulation
James Beyer, Bureau of Land and Water Quality

Following presentations by representatives of the appellants Penobscot Forest LLC and Passadumkeag Windpark LLC, respondents Alexander and Rhonda Cuprak, and Department staff and questioning by Board members, Board member Gould made a motion, which was seconded by Board member Eastler, to remand the matter to Department staff for further consideration and reopening of the record to allow the applicant to amend its application and to allow the submission of additional evidence by the applicant, interested persons and the public. Following discussion of the motion and a statement by Department staff that it could not predict the outcome of a remand and would

prefer a reversal (if the Board had concluded that the license should be granted), Mr. Easter withdrew his second and Mr. Gould withdrew his motion to remand.

Board member Ehrenfeld then made a motion, which was seconded by Board member Eastler, to direct the staff to draft an order granting the appeals, reversing the Department's decision, and approving the project. The Board voted (5-1-0-1) on the motion. The vote was taken pursuant to 38 M.R.S. § 341-D(4), 38 M.R.S. § 344(2-A), and Chapter 2 § 24(B) of the Department's statutes and rules governing appeals; 38 M.R.S. §§ 480-A through 480-HH the Natural Resources Protection Act; 38 M.R.S. §§ 482 through 490 the Site Location of Development Law; and 35-A M.R.S. §§ 3451 through 3455 the Maine Wind Energy Act .

Board members Alvin Ahlers, Thomas Eastler, Elizabeth Ehrenfeld, Robert Foley and Richard Gould voted to support the motion. Board member Susan Lessard voted opposed. Board member M. Wing Goodale was absent.

(The meeting adjourned at approximately 2:00 p.m.)

