

Saddleback Ridge Wind LLC / Remand

Applicant's Letter of April 23, 2013: Comments on the Process for Consideration of the Application on Remand

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April 23, 2013

VIA Electronic and U.S. Mail

Robert Foley, Chair
c/o Cynthia Bertocci, Executive Analyst
Maine Board of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

**Re: Process for Consideration on Remand
Saddleback Ridge Wind, LLC
L-25137-24-A-N/L-25137-TG-B-N (approval)**

Dear Chair Foley and Members of the Board,

I am writing on behalf of Saddleback Ridge Wind, LLC ("SRW") regarding the process for the Board's consideration of SRW's April 9, 2013 submission in response to the Law Court's remand of the above-referenced license.

SRW agrees that a review by staff that includes peer review and comment by the parties is appropriate and should be encouraged. However, SRW believes that the proposed Board process circulated by e-mail on April 19 can be shortened, given the single issue under consideration in this remand. SRW's concern is that the process proposed in the April 19 email would likely not be resolved until late summer, and possibly later. As I noted in my April 9 cover letter, SRW's project has already been under review by the Commissioner's staff, third-party consultants, the Board, and the Maine Supreme Court for two and a half years. To that end, SRW proposes the following thorough but timely review schedule:

- May 2, 2013: The Board meets and votes to adopt a procedure and schedule for review of SRW's submission on remand. The Board directs staff to commence review of SRW's submission and to contract with a third-party peer reviewer. For the sake of consistency and efficiency, the peer review should be sole-sourced to the consultant who has reviewed the SRW project up to this point. The Board directs staff to provide notice to parties and interested persons of deadlines for comment on SRW's submission.
- May 17, 2013: Deadline for the completion of third-party peer-review.
- May 24, 2013: Deadline for comment on SRW's April 9 submission and on third-party peer-review.

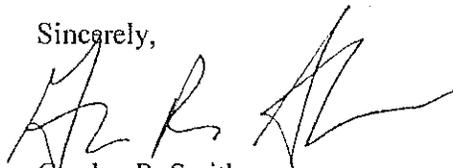
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- May 31, 2013: Department staff issues a staff recommendation / draft Board order.
- June 12, 2013: Deadline for comment on the staff recommendation / draft Board order. This would allow two full weeks for comment on the draft order. The requirement for 15 working days of public comment when the Board has assumed original jurisdiction over an application, 38 M.R.S.A. § 344(4-A)(B), does not apply to this proceeding, which is an appeal of a commissioner licensing decision. Furthermore, 15 working days of public comment are not necessary for the single issue of SRW's compliance with sound limits, which has received extensive comment and analysis over the past two and a half years of the licensing process. If the Board determines that it is not necessary to allow comment on the staff recommendation / draft Board order, June 12 can be the date by which the draft order is issued. It should be noted that, under either scenario, the parties will have the opportunity under Chapter 2, Section 24(B)(6) to make presentations to the Board discussing the additional noise impact study evidence.
- June 20, 2013: The Board meets for its regularly scheduled meeting to hear oral argument from SRW and the appellants, and to vote on the draft order. (Please note that the Board's first July meeting falls on July 4th, so the next regularly scheduled meeting will not be until July 18.)

We request that this letter be included in the Board's packet for its May 2 meeting. I look forward to addressing the Board on this matter at the Board's May 2 meeting. In the meantime, thank you for your attention and please contact me with any questions.

Sincerely,



Gordon R. Smith

cc: Commissioner Patricia Aho
Assistant Attorney General Peggy Bensinger
Mark Bergeron
Erle Townsend
Rufus Brown, Esq.

