



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

MEMORANDUM

TO: The Board of Environmental Protection

FROM: Cynthia Bertocci, Board Executive Analyst

RE: Appeal filed by Passadumkeag Wind Park, LLC and Penobscot Forest, LLC of Site Location of Development Act and Natural Resources Protection Act Denial # L-25597-24-A-N and L-25597-TH-B-N for the Passadumkeag Wind Park in the town of Greenbush and the townships of Greenfield, Grand Falls and Summit.

DATE: July 18, 2013

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Statutory and Regulatory References: The applicable statutory and regulatory framework for the issues raised in this appeal are the Site Location of Development Law (Site Law), 38 M.R.S.A. § 484; Site Location of Development Rules, Chapter 375 §§ 14; the Maine Wind Energy Act (WEA), 35-A M.R.S.A. §§ 3451-3455; the Natural Resources Protection Act (NRPA), 38 M.R.S.A. § 480-D; and, the Wetland Protection Rules, Chapter 310. The Site Law Rules interpret and elaborate on the Site Law criteria and the Wetland Rules interpret the NRPA criteria. The Site Law and the NRPA contain standards for existing uses and scenic character for which an applicant must demonstrate a project will not result in an unreasonable adverse effect. The Wind Energy Act sets forth licensing criteria specific to applications filed for permits for expedited wind energy projects.. Procedures for appeals before the Board are outlined in the Department's Rules Concerning the Processing of Applications, Chapter 2 § 24 (B).

Decision before the Board: At its meeting on March 21, 2013, the Board, after consideration of the arguments made and the evidence in the record, directed staff to draft a proposed order granting the appeals and approving the proposed project. In accordance with 38 M.R.S. § 344(4-A)(B), the draft order was made available for a 15 working day comment period. The Board received 45 written comments on the draft order, including a statement signed by 53 individuals. Some of the comments included additional evidence, such as photographs and information on the economic impact of wind energy projects. While the comment letters were accepted, the additional documentary evidence was not admitted because the evidentiary record in this matter is closed. The record before the Board in an appeal is the administrative record before the Department when it made its licensing decision, unless supplemented under specific conditions set forth in statute and rule.

The comments on the draft order were posted to the Board's webpage on Monday, July 15, 2013 with electronic notice to the parties and interested persons. Board members have also been provided with a paper copy of the comments received.

The order before you today for consideration shows the changes to the order made in response to comments received. The changes are shown in legislative format, with additions underlined and deletions depicted with strike-through.

The Board may accept, reject, or request additional changes to the order.

Estimated Time of Agenda Item: 1.5 hours