

Improving State Decision Making on Siting of Grid-Scale Wind Power Projects

Following up on discussion at the Task Force's November 16, 2007, meeting, this document outlines two straw proposals for revision of Maine's current approach to decision making on proposals for development of grid scale wind power projects. At its November 16th meeting, the Task Force identified these straw proposals as warranting further, more detailed consideration. Inclusion of a straw proposal in this document neither indicates nor implies its support or endorsement by Task Force members.

Part One is an *overview* of the two straw proposals and key issues on which they take shared and different approaches.

Part Two provides *more detail on approaches common to each straw proposal*.

Part Three *details the straw proposals themselves*, with a focus on the decision making process.

Part One - Overview of Straw Proposals

- ❖ **Issues on which Straw Proposals Share a Suggested Approach (see Part Two for more detail)**
- *Revised LURC zoning* - Creation of zones (in areas currently zoned P-MA and M-GN) in which wind power development is an allowable use; allowance for wind power development in other areas pursuant to rezoning; clarification that if a project would affect a protection district, e.g., by crossing a wetland, located within a general area where wind development is an allowable use, rezoning would not be required; interim provision, pending zoning revision, authorizing LURC's executive director to determine, in lieu of rezoning, if a proposed wind development is a compatible land use where proposed
- *Clear approval requirements regarding environmental and natural resources effects* - approval criteria tailored to address impacts specifically associated with wind power projects (e.g., those re: bird and bat populations, noise, and impacts to scenic resources at the scale of wind power projects) and set clear standards for approval and clarify related information requirements (e.g., study protocols) based on best currently available information; provisions for applicant-funded decommissioning and mitigation based on project-specific effects.¹

¹ The Task Force has discussed different approaches to provision of such mitigation. Options A&B as described on page 3 would allow full consideration of mitigation proposals. Under Option C consideration of mitigation would be limited to impacts on wetlands, vernal pools, and certain shorebirds.

- *Consideration of environmental and certain renewable energy-related benefits in making siting decisions* - See discussion below ("Consideration of public benefits") on the range of approaches to this item presented by the straw proposals
- *Department of Environmental Protection (DEP) to provide core staffing for review and analysis of environmental issues* presented by wind power proposals. DEP carries out these core duties in different ways under alternatives presented by the straw proposals.
- *Application fees cover costs* - application fees would cover state costs of administering the permitting program. Existing staff services would be supplemented with applicant-paid consulting services as needed.

❖ **Issues on which Straw Proposals Suggest Different Approaches (see Part Three for more detail)**

Decision makers

Although both straw proposals suggest consolidation of state decision making on siting grid-scale wind power projects, they do so differently. Two basic options are suggested:

- *New statewide siting authority* (formerly Straw Proposal 3) comprised of the *PUC chair and two paid public members with expertise on environmental issues (the chairs of LURC and the BEP could serve as non-voting ex-officio members, if desired)*. PUC staff would coordinate the permit review process, involving DEP-proposed findings on environmental issues, and conduct hearings, when held, under PUC rules; and
- *DEP statewide permitting authority in all areas where wind power is an allowable use* (formerly Straw Proposal 4). DEP Commissioner, with potential for BEP assumption of jurisdiction as under current law, would have authority to issue permits for wind power development in organized territory (current law), plus areas in LURC jurisdiction rezoned to make wind power development an allowable use.

Under both proposals, LURC rezoning approval would also be required if a project were proposed in a zone where wind power is not an allowable use. Under Straw Proposal 4, LURC would retain permitting authority over projects that required rezoning.

Consideration of public benefits

As noted above, there appears to be agreement in principle on the Task Force that certain public benefits of wind power projects should be considered in making siting decisions. The approaches outlined below are offered to frame a range of options for

consideration and to facilitate the further discussion that is needed on how best to address this issue.

The primary differences among the options outlined concern: 1) the *types project-related benefits which may be considered* in decision-making; and 2) *how project-related benefits are considered* in making siting decisions.

- Option A: Holistic public interest test. *Consideration of a project's environmental and natural resources and **economic benefits, including economic development-related benefits**, as a whole* in determining whether a project is in the public interest (Straw Proposal 3/Option A).

Benefits considered. In considering project-related benefits, pertinent considerations would *include*, but not necessarily be limited to *job creation and other economic development related benefits* that would result from the project; effects on electric power rates; measures taken to address energy supply needs or electric rates of businesses or other customers; renewable energy policy related benefits, such as *diversification of energy supply options and reduction of reliance on fossil fuels; consistency with state energy plan* (if applicable); *comparative advantages over fossil fuels and other options* to meet identified energy needs regarding emission of CO₂ and other air pollutants and project's *contribution to achievement of RGGI goals; mitigation measures* to address concerns or opportunities affected natural resources and related public uses.

How benefits considered. Project related impacts and benefits would be considered jointly to determine if the advantages of the project are greater than its direct and cumulative adverse effects over the life of the project.

- Option B: Environmental - renewable energy decision-making criterion. *Consideration of project-related environmental and renewable energy related benefits (e.g., greenhouse gas effects and diversification of supply options), but **excluding economic development benefits**.*

Benefits considered. *Same as Option A, except economic development-related benefits*, such as job creation that would result from the project and measures to address electricity rates of businesses or other customers, would *not be considered* in decision-making.

How benefits considered: Project related impacts and benefits would be considered jointly to determine if the advantages of the project are greater than its direct and cumulative adverse effects over the life of the project.

- Option C: Factor in determining reasonableness of impacts. *Consideration of a project's greenhouse gas and other air pollution-related benefits* in determining whether potential impacts are reasonable (Straw Proposal 4)

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Benefits considered: The project's *comparative advantages over fossil fuels regarding emission of CO2 and other air pollutants.*

How benefits considered: Site Law would be amended to allow reductions in greenhouse gas emissions as well as air pollutants to be considered in determining the "reasonableness" of the project's impacts.

As under current law, mitigation of impacts on wetlands, vernal pools, and certain shorebirds would be required and considered in the determination of the reasonableness of impacts. Consideration of mitigation for impacts to other natural resources would, as under current law, not be allowed.

Note: Under each of the approaches above, in statutes making requisite changes the Legislature would make findings outlining those beneficial, renewable energy related aspects of wind energy development that are common to wind power projects. Such benefits would include contribution to achievement of renewable energy generation and greenhouse gas-related goals (e.g., RGGI goals), advantages regarding emission of CO2 and other air pollutants as compared with generation from fossil fuel sources, diversification of fuel supply options and increased utilization of indigenous, renewable energy resources to address energy demand that may otherwise be addressed by fossil fuels or other non-renewable energy sources. These legislative findings would provide the policy basis for a distinct approach to wind power development that recognizes and perhaps establishes a rebuttable presumption regarding these benefits and focuses case-by-case decision making on project-specific issues and benefits as opposed to these more global considerations, such as a particular project's contribution to addressing global climate change concerns.

Part Two: Elements Common to Both Proposals

❖ Revised LURC Zoning

With the several differences noted below, the straw proposals share the following common approach to revision of LURC's zoning and related land use decision making on grid-scale wind energy development projects proposed for the State's unorganized area.

By statute, LURC would be directed to revise its zoning to designate areas, currently zoned as protected mountain areas (P-MA) or general management districts (M-GN), within which wind power would be an allowable use. (Such areas are referred to below as "wind zones.") Revision of LURC's zoning would entail, for example, designation of PM-A1 and PM-A2 zones, and M-GN1 and M-GN2 zones. The "1" designations would require rezoning; the "2" designations would be areas where wind power is an allowable use.

LURC would retain rezoning authority as under current law for all projects proposed in zones where wind power has not been made an allowable use. Under Straw Proposal 3, "allowable use" means, from LURC's perspective, a use that is allowed without a permit (i.e., a permit from LURC) subject to standards. The primary (or sole) standard would require that a project obtain and comply with the terms of a wind power project permit issued by the Authority.

Under Straw Proposal 4, "allowable use" has the same meaning for projects in zones (rezoned P-MA and M-GN areas) where wind is identified as an allowable use, with the distinction that a project would be required to obtain DEP permit approval. In instances where rezoning is required, a LURC development permit would continue to be required.

LURC would be directed to consider pertinent information regarding natural resources characteristics and related public uses in rulemaking to revise its zoning to establish such wind zones and complete such rulemaking by a date certain. LURC would be further directed to revise its Comprehensive Land Use Plan (CLUP), if and as needed, to clarify that wind power development is an allowable use in locations in LURC territory.

Current law would be further amended to authorize LURC's executive director to determine whether the proposed project is an allowable use in the pertinent zone(s). As noted above, under both Straw Proposals, if a proposed project is not an allowable use in the zone(s) in which it is proposed, LURC's approval of a rezoning petition under the current planned development district standards would be required in addition to the requisite state development permit approval. Under both Straw Proposals, LURC would be directed to make its rezoning determination within a statutorily prescribed timeframe.

LURC's authorizing legislation and land use districts and standards (LURC rules chapter 10) would be amended to clarify that neither rezoning nor a LURC permit would be required for a wind power project located within a wind zone (rezoned M-GN or P-MA zone) if an element of the project (e.g., tower, transmission line, or road) that is subject to permitting as described under Straw Proposal 3 and 4 crosses, is located within, or may otherwise affect a protection district located within the wind zone. Potential natural resources related effects on such areas and related mitigation requirements, if any, would be addressed in making the development permit decision.

NOTE: As an interim measure, pending rulemaking to revise LURC's zoning districts and rezoning standards, LURC's executive director would be required to determine, in lieu of rezoning and pursuant to a new statutory authority, whether a proposed wind power development is a compatible land use based on consideration of current zoning and pertinent information regarding site and area specific natural resources characteristics and related public uses.

❖ **Improved Environmental and Natural Resources-Related Approval Standards**

Evaluation of grid-scale wind power development proposals using environmental and natural resources standards that take into account the benefits as well adverse effects of wind power is a common element of the straw proposals, although each takes a somewhat different approach.

Under each alternative, pertinent site review and permitting authorities would be amended or adopted to ensure:

- *Clear approval requirements regarding natural resources effects* that address impacts specifically associated with wind power projects (e.g., those re: bird and bat populations, noise, and scenic resources), set clear standards for approval, clarify information requirements associated with standards of approval (e.g., study protocols), and are based on best currently available information
- *Decommissioning* - Applicant has provided a fully funded decommissioning account commensurate with the project's scale, location and other considerations, that would be unaffected by the applicant's future financial condition; required as a condition of approval
- *Suitable provision is made for mitigation of a project's adverse effects.* Mitigation requirements under current law (e.g., wetlands) would be maintained. The Task Force has also discussed compensatory mitigation of project-specific effects on other natural resources, e.g., high mountain areas. Note: The straw proposals address the issue of mitigation differently as outlined in Part One, "Consideration of Public Benefits", above.

- *Project-related public benefits* - Each proposal provides for consideration of such benefits differently. See Part One, above.
- *Financial capability* - Applicant has the financial capability and technical ability to undertake the project.
- *Public safety* - Applicant has made adequate provisions for protection of public safety regarding noise and other project-related effects.
- *Traffic movement* - Applicant has made adequate provisions for traffic movement of all types out of or into the development area

❖ **State Costs of Administering Permit Process Covered by Application Fees**

Under each proposal, application fees would be used to ensure that state costs are covered. Applicant-funded consulting services would be retained as needed to supplement review activities by existing state staff. Under Straw Proposal 3, a start-up legislative appropriation, which would be repaid with application fees, is proposed to fund services of the two public members of the Authority.

Part Three: Descriptions of Straw Proposals

❖ New Statewide Authority (formerly Straw Proposal 3)

General Description: This proposal would establish a new Wind Power Siting Authority, housed at the Public Utilities Commission, to make permitting decisions statewide on grid scale wind energy development proposals. Pursuant to wind power specific authorizing legislation, the Authority would consider a project-related benefits in addition to adverse effects in reaching its decision. Two alternative options are provided regarding criteria by which the Authority would comprehensively evaluate a proposal.

LURC would retain land use authority under a revised zoning scheme, described in Part Two, above.

Decision makers

A new *ad hoc* Wind Power Siting Authority ("Authority") would have jurisdiction over and meet as needed to consider grid-scale wind power project proposals statewide. The Authority would be made up of the following: Chair of PUC and two public members, appointed by the Governor, subject to legislative confirmation, one with expertise in land use matters and one with expertise in wildlife and related natural resources matters.

Note: An option is to include BEP and LURC chairs as *ex officio* members. This option may be inconsistent with the goal of relieving the burden on these citizen boards.

The public members would be compensated at an hourly, professional rate, on a fee for services basis, with reimbursement for expenses. Funds to pay for these services would be generated through a portion of application fees for projects subject to the Authority's jurisdiction. Such funds would be paid into an account managed by PUC. For start-up purposes, a legislative appropriation would seed this account. Funds generated from permit fees would be used to reimburse fully this start-up appropriation.

Staff; main agency roles

The Authority would be organized within PUC for administration. PUC staff would coordinate the overall permitting process.

State agency staff at DEP would review project proposals and develop recommended findings for the Authority's consideration on a project's compatibility with environmental and, in consultation with PUC staff as appropriate, related renewable energy-related approval criteria, including that regarding the project's public benefits, as described below. DEP's environmental review responsibilities would be comparable to those under existing law but pursuant to a new wind power-specific statute.

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Under the same new law, PUC staff would have new responsibilities regarding review of the need for, utility and other implications of the project's renewable energy generation as described below. PUC would staff adjudicatory hearings when applicable.

DMR (for coastal zone projects), DIFW, and DOC would perform permit review-related roles comparable to those under current law and develop recommended findings on a project's beneficial and/or detrimental effects regarding conservation of state natural resources and related public uses, as described below. DIFW would review the project pursuant to the Maine Endangered Species Act (MESA), as applicable, which would continue to apply to proposed projects as under current law.

LURC staff would continue to have responsibilities regarding administration of LURC zoning, as described below.

Approval standards

- ❖ *Environmental and energy related siting criteria; approach to consideration of project benefits.*

This straw proposal provides two alternative options regarding environmental and renewable energy related approval criteria:

Option A: Holistic public interest test

Pursuant to a new, wind power-specific statute, the Authority would determine whether to allow siting and development of a proposed grid scale wind power project based on a public interest-based test. In concept, this test would be comparable to that required for PUC's issuance of a certificate of public convenience and necessity with additional consideration required regarding environmental and natural resources issues. Approval by the Authority would be required in lieu of all DEP and/or LURC permit approvals currently required for grid scale wind energy projects. (See provision re: LURC zoning approval below.) The Authority's decision on whether the project, considered as a whole, is in the public interest would be based on consideration of factors such as demand for renewable energy produced by the project and its compatibility with wind power-specific environmental and renewable energy criteria, see Part One above. One factor for consideration would be whether the project proposes optimal use of the available wind resources, in light of wind speeds, proposed turbine size and related matters.

The Authority, with recommendations from state agencies as noted above, would make the requisite findings of fact and conclusions of law on whether a project meets the public interest test. As described below, the Authority may hold an adjudicatory hearing to consider additional information as it deems necessary and appropriate to make factual findings and legal conclusions to approve, approve with conditions, or deny state siting approval.

Option B: Unified environmental-renewable energy criterion

Pursuant to a new, wind power-specific statute, the Authority would determine whether to allow siting and development of a proposed grid scale wind power project based on its determination of a project's consistency with approval criteria, outlined in Part Two, above. In order to issue a permit, the Authority would need to determine that each separate criterion is met.

The project's environmental, natural resources and renewable energy related benefits would be considered together with its adverse impacts under a unified environmental and renewable energy criterion requiring determination on whether the advantages of the project are greater than its direct and cumulative adverse effects over the life of the project. Under this approach, the Authority would be required, based on recommended findings from DEP, PUC and other agencies as appropriate, to make written findings of fact on specific items, e.g., effect on avian and other wildlife populations, listed under this criterion and explain its conclusion based on these findings. One factor listed for consideration under this environmental-energy criterion would be whether the project proposes optimal use of the available wind resources, in light of wind speeds, proposed turbine size and related matters.

Approval by the Authority would be required in lieu of all DEP and/or LURC permit approvals currently required for grid scale wind energy projects. (See provision re: LURC zoning approval below.)

Note: Under both Option A and B, all mitigation measures to address concerns or opportunities regarding affected natural resources and related public uses would be considered in making a permitting decision.

❖ *LURC Zoning Criteria (unorganized area) - See Part Two*

Process overview

Pre-filing stage. Pursuant to published guidance and procedural requirements modeled after DEP's chapter 2 rules for major site law projects, prospective applicants would be advised to hold informational meetings in the host community to identify issues and concerns as early as possible in the project planning process. In addition, prospective applicants would be required to hold a pre-filing meeting, coordinated by PUC staff, with DEP and other state agencies to identify applicable approval criteria and related information submission requirements and a public meeting in the project area no more than 30 days before filing an application.

Application review stage. Application for siting approval would be made to the Authority and processed by PUC staff, which would distribute the application to DEP, review agencies, and LURC (on land use compatibility/zoning, when applicable; see above) and coordinate the overall permit review process. Within 15 working days of receipt, PUC, in consultation with other state agencies, would determine whether the

application is complete for review. Additional information may be deemed necessary as the agencies' review proceeds.

Within a time certain, the state agencies noted above would provide recommended findings of fact and conclusions of law regarding the project's consistency with environmental and renewable energy criteria. DEP, for example, would provide recommended findings on whether environmental criteria are met. Subsequently, within a time certain, the Authority would issue and provide notice and opportunity for comment (public and applicant) on draft findings of fact and conclusions of law or schedule an adjudicatory hearing on the proposal. The statute would provide for decision by the Authority within 185 days from the date of the application's acceptance (current processing timeline for most projects subject to the Site Law where DEP Commissioner as opposed to BEP makes the permitting decision).

Question: Would provision for a longer timeline be advisable for contested matters for which the Authority holds an adjudicatory hearing?

Adjudicatory hearing phase. At its discretion, the Authority would hold an adjudicatory hearing, using PUC's adjudicatory hearing rules (PUC rules ch. 110) (amended if and as appropriate), if it determined such a hearing necessary and appropriate to provide additional information for its consideration or otherwise in the public interest. During the public comment period, interested parties would have an opportunity to request intervenor status and/or an adjudicatory hearing on the grounds noted above.

On notice to the Authority, DEP, LURC, DMR, DIFW, DOC, the Office of the Public Advocate and the Department of Attorney General would be entitled to intervenor status in adjudicatory hearings.

Appeal stage. The Authority's decision could be appealed to Superior Court [Question: Law Court (Maine's supreme court)?] for review on the record pursuant to the standard for review in the Maine Administrative Procedure Act.

Compliance enforcement phase. The Authority, through the Attorney General's office as appropriate, would have authority to enforce its decisions. DEP would provide lead staff for purposes of enforcement actions statewide.

❖ **DEP Permitting in All Areas Where Wind Power is an Allowed Use (Formerly Straw Proposal 4)**

General Description: This proposal provides greater authority to DEP, by making DEP the sole permitting authority over wind power projects statewide, including zones in LURC territory where wind power is an allowable use. DEP would make its decisions pursuant to current law (e.g., Site Location of Development Act) amended as appropriate to address wind power specific issues including project-related benefits regarding emissions of CO₂ and other air pollutants.

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LURC would retain land use authority under a revised zoning scheme. See Part Two, above.

Decision makers

Projects in organized areas (i.e., within municipal boundaries). DEP/BEP would be the main permitting agency. DIFW, DOC and DMR (for coastal zone projects) would serve as main review agencies as under current law. Although BEP could assume jurisdiction over a project as under current law, the DEP Commissioner would otherwise make decisions under applicable authorities (e.g., Site Law, NRPA) amended as appropriate to address wind power specific issues. See Part Two, above. See also discussion re: Approval Standards, below.

Projects wholly in unorganized areas. In addition to its current authority, DEP would have sole state permitting authority in places where, pursuant to revision of LURC's zoning, wind power is an allowable use. See Part Two, above.

In zones where wind power is not made an allowable use, LURC would have authority, as under current law, to consider rezoning petitions and, if rezoning is approved, development applications for projects wholly within LURC jurisdiction.

Projects in both organized and unorganized areas. Current law would be amended to give DEP sole permitting authority over the project as a whole if the part of the project located in LURC territory is: 1) in a zone(s) where wind power is an allowable use; or 2) located in a zone where wind power is not an allowable use and the Commission has approved a rezoning petition in the manner provided under current law.

Staff; main agency roles

State agency staff at DEP, LURC and natural resources agencies would perform their permit review-related roles as under current law.

PUC staff would have new responsibilities regarding renewable energy issues as outlined below.

Process for Harmonizing Administrative Procedures

Although DEP would likely have permitting authority for many projects in LURC territory under this proposal, LURC would retain its permitting authority over projects in areas where rezoning is required. Consequently, DEP and LURC would be directed as follows to make changes needed to harmonize their administrative procedures. This work would build on related efforts undertaken by the agencies to date.

DEP and LURC would be directed, in accordance with a legislatively established schedule, to revise their administrative procedures to ensure that wind power proposals

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are processed as uniformly and expeditiously as possible statewide, and to that end to make administrative changes that may be accomplished under existing law (rule or statute) by a date certain. The agencies would consult with interested parties in making such changes. The law would also require the agencies to initiate rulemaking (minor technical rules) and identify any statutory changes necessary to that end by a date certain. The agencies would jointly report to the Legislature on activities pursuant to these mandates and include in that report recommended statutory changes. Potential changes include but are not limited to creation of a common application form and application fee schedule; common protocols regarding information needed to review key issues (e.g., noise, effects on birds and bats, and scenic effects); common and clear approach and schedule for determining if an application is complete for review; the schedule for application processing; use of consultants to facilitate review; decision on when to hold a public hearing; and provision for circulation of draft orders.

Approval standards

- ❖ *Environmental and energy related siting criteria; approach to consideration of project benefits.*

Current siting related authorities (e.g., site law, NRPA and LURC statute and chapter 10 land use districts and standards), amended as outlined in Part Two, above, would continue to govern review and approval of project proposals.

In order to provide for consideration of the project's environmental and natural resources benefits regarding emissions of CO₂ and other air pollutants as compared with other options to meet energy demand, pertinent laws and rules currently administered by DEP and LURC would be amended to clarify that in applying "unreasonable" adverse effect and related decision criteria, such as the Site Law's "fits harmoniously" standard, consideration must be given to such benefits. As noted in Part One, economic development-related project benefits, such as job creation, and mitigation measures other than those required under current law regarding impacts to wetlands, vernal pools and certain shorebirds, would not be considered in making a permitting decision.

The lead permitting agency (DEP or LURC) would consult as necessary with PUC and OEIS to analyze and make findings regarding a project's CO₂ and air emissions related benefits.

- ❖ *LURC Zoning Criteria (unorganized area) - See Part One, above*

Process overview

Pre-filing stage. Pursuant to published guidance and procedural requirements (revised if and as needed and modeled after DEP's chapter 2 rules for major site law projects), prospective applicants for projects in both DEP and LURC jurisdiction would be advised to hold informational meetings in the host community to identify issues and concerns as early as possible in the project planning process. In addition, prospective

applicants would be required to hold a public meeting in the project area no more than 30 days before filing an application. The lead agency (DEP for projects in organized areas or LURC zones where wind is an allowable use; LURC where rezoning is required) would also hold a pre-application meeting to identify applicable approval criteria and related information submission requirements.

Application review stage. The lead agency (DEP or LURC) would review applications with comments from natural resources agencies as well as PUC and OEIS and provide for public comment as under current law, subject to revisions discussed above (see "Process for Harmonizing Administrative Procedures" section). As noted above, permit approval standards would be amended to provide that the permitting agency must take into account CO₂ and other air emissions-related benefits of a proposed wind power project.

For projects in LURC jurisdiction over which DEP has permitting authority, LURC would provide comments to DEP as a review agency.

PUC staff would assist DEP as appropriate in evaluating a project's benefits regarding CO₂ and other air pollutant emissions and, to the extent germane to the permitting decision provide DEP (LURC, in the case of projects requiring rezoning.) with proposed findings on whether a proposed wind power project is or is not consistent with the energy needs of Maine

At the staff level, the permitting agency would issue a draft permit recommending approval, approval with conditions, or denial of the permit application. The permitting agency would hold a public meeting to receive public comment on any draft permit issued.

As noted above, BEP may assume jurisdiction over the project in a manner comparable to current law. Any petition by members of the public for BEP to assume jurisdiction would need to show that the project is of significant public interest, based on significant issues or impacts that are distinct and/or unique to the proposed project, when compared with other projects evaluated for permit approvals.

Absent a contested hearing, the DEP Commissioner or LURC would issue the final permit approval or denial. Final agency decision would be made 180 days from acceptance of the completed permit application.

Question: Would provision for a longer timeline be advisable for contested matters for which BEP holds an adjudicatory hearing?

Appeal stage. There would be no change. A DEP decision could be appealed to the Board. A LURC (including new decision by the executive director), DEP or BEP decision could be appealed to Superior Court [Q: Law Court?] for review on the record pursuant to the standard for review in the Maine Administrative Procedure Act.

Compliance enforcement phase. There would be no change. DEP and LURC, through the Attorney General's office as appropriate, would have authority to enforce their decisions. DEP and LURC would provide lead staff for purposes of enforcement of their respective decisions.