



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION

22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB  
COMMISSIONER

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

Jessica Damon  
Maine Department of Environmental Protection  
106 Hogan Road  
Bangor, ME 04401

For

Bowers Wind Project, Champlain Wind, LLC  
Carroll Plantation and Kossuth Township, Maine

### **Certification of Allowed Use**

October 19, 2012

Dear Jessica:

On October 3, 2012, Champlain Wind, LLC, a subsidiary of First Wind represented by its agent Stantec Consulting, submitted to the Department of Environmental Protection (the DEP) a combined Site Location of Development Law (Site Law)/Natural Resources Protection Act (NRPA) application for the Bowers Wind Project. This project is located entirely within the unorganized townships of Carroll Plantation (Penobscot County) and Kossuth Township (Washington County). Champlain Wind LLC concurrently provided copies of portions of this combined application to the Land Use Planning Commission (the LUPC) for the LUPC's review in determining whether to certify to the DEP that the Project (a) is an allowed use within the subdistricts in which it is proposed and (b) meets the land use standards established by the LUPC that are not considered in the DEP's permit review. 12 M.R.S. § 685-B(1-A)(B-1). Champlain Wind included a notice of the intent to develop and a map indicating the location of the proposed development with its DEP application; the notice and map were included in the portions of the combined application provided to the LUPC. On October 19, 2012, the DEP formally requested that the LUPC make a certification determination with regard to Chamberlin Wind's proposal.

### **Proposal and subdistricts proposed for development**

Champlain Wind proposes to construct the 48 megawatt Bowers Wind Project, consisting of 16 turbines, new and existing access roads, a 34.5 kV electrical collector line, an Operations and Maintenance building, and a substation where the collector line connects the project to an

existing generator lead line (collectively, the Project). The Project is located entirely within unorganized or deorganized areas of the State. The subdistricts affected by the Project are the General Management (M-GN), Flood Prone Area (P-FP), Shoreland Protection (P-SL), and Wetland Protection (P-WL) subdistricts.

In addition, the Project is located entirely within the expedited permitting area for wind energy development. Previously, the expedited permitting area for wind energy development did not include the portion of the Project proposed to be located in Kossuth Twp., but on December 1, 2010 the predecessor to the LUPC, the Land Use Regulation Commission, approved Champlain Wind's rule-making petition to add 695 acres of that township to the expedited permitting area.

### **Review criteria**

The following statutory provisions are relevant to the determination of whether the Project is an allowed use in the subdistricts in which it is proposed to be located:

1. *12 M.R.S. § 685-B(1-A)(B-1)*. "Except for projects that are located in a planned subdistrict that was approved or accepted by the commission for processing prior to September 1, 2012, a permit from the commission is not required for a development of state or regional significance that may substantially affect the environment as defined in Title 38, section 482, subsection 2. A project meeting that definition is reviewed under Title 38, section 489-A-1. A person submitting a development proposal to the Department of Environmental Protection under Title 38, section 489-A-1 shall file a notice of the intent to develop and a map indicating the location of the proposed development with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection. The Department of Environmental Protection must receive certification from the commission that the proposed development is an allowed use within the subdistrict or subdistricts for which it is proposed and the proposed development meets any land use standard established by the commission that is not considered in the department's review under Title 38, section 489-A-1, subsection 1 before issuing a permit. Nothing in this subsection may be construed as prohibiting the commission from enforcing the land use standards certified to the Department of Environmental Protection under this paragraph."
2. *12 M.R.S. § 685-B(2-C)*. "*Wind energy development; community-based offshore wind energy projects; determination deadline*. For purposes of this subsection, "expedited permitting area," "grid-scale wind energy development" and "wind energy development" have the same meanings as in Title 35-A, section 3451. The following provisions govern wind energy development.
  - A. The commission shall consider any wind energy development in the expedited permitting area under Title 35-A, chapter 34-A with a generating capacity of 100 kilowatts or greater or a community-based offshore wind energy project a use requiring a permit, but not a special exception, within the affected districts or subdistricts.
  - B. All grid-scale wind energy development proposed for the unorganized or deorganized

areas of the State is reviewed and permits are issued by the Department of Environmental Protection under Title 35-A, chapter 34-A and Title 38, section 489-A-1.”

**Assessment of the Project as an Allowed Use in the Subdistricts in Which Development is Proposed**

Based on the materials submitted by the Champlain Wind, the LUPC, through its staff, determines that:

1. All parts of the Project, as proposed, are a wind energy development;
2. All parts of the Project, as proposed, will be located in Carroll Plantation (Penobscot County) or Kossuth Township (Washington County);
3. The portions of Carroll Plantation and Kossuth Township in which the Project is proposed to be located are within the expedited permitting area for wind energy development; and
4. In the subdistricts in which the Project is proposed to be located, the (M-GN) General Management, (P-SL2) Shoreland Protection, (P-FP) Flood Prone Area Protection (crossings by the 34.5 kV line), and (P-WL) Wetland Protection (crossing by the 34.5 kV line) subdistricts, wind energy development is an allowed use. (See Chapter 10 of the Commission’s Land Use Districts and Standards, Sections 10.22,A,3,c(27); 10.23,C,3,c(22); 10.23,L,3,c(24); and 10.23,N,3,c(18).)

Therefore, the LUPC certifies to the DEP that the Project is an allowed use in the subdistricts in which it is proposed. Neither special exception approval nor rezoning is required for the Project.

Please note that this certification is not final agency action and pertains only to the staff’s determination of the use proposed by Champlain Wind. The LUPC will conduct a further review of application and administrative record materials to determine whether to certify to the DEP that the Project meets the land use standards established by the LUPC that are not considered in the DEP’s permit review.

If you have any questions or would like to further discuss this matter, please contact Marcia Spencer-Famous at the Augusta office at [Marcia.spencer-famous@maine.gov](mailto:Marcia.spencer-famous@maine.gov) or at (207) 287-4933.

Sincerely,



Nicholas D. Livesay, Executive Director  
Maine Land Use Planning Commission

cc: Joy Prescott, Stantec  
Juliet Browne, Esq. Verrill Dana  
Neil Kiely, First Wind  
Samantha Horn-Olsen, LUPC Planning Manager  
Marcia Spencer-Famous, LUPC Senior Planner