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LAND USE PLANNING COMMISSION
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For

Hancock Wind Project (SLC-2)
Hancock Wind, LLC
T22 MD BPP, T16 MD BPP and the Town of Osborn, Hancock County

Certification of Allowed Use

January 24, 2013

Dear Maria:

On January 14, 2013, Hancock 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 Hancock Wind Project. The proposed Hancock Wind Project is located within the unorganized townships of T22 MD BPP, T16 MD BPP, and the Town of Osborn¹ in Hancock County. Hancock Wind, LLC concurrently provided copies of portions of this combined application to the Land Use Planning Commission (the LUPC). On January 16, 2013, the DEP requested that the LUPC review these materials to determine 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). Hancock Wind included its public 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 also included in the portions of the combined application provided to the LUPC.

¹ The Town of Osborn is partially organized, with the Land Use Planning Commission serving as its planning board. Osborn is subject to the provisions of the Commission's Comprehensive Land Use Plan (page 41), which states, "Town government in these communities is no different from other Maine towns, except that jurisdiction over land use remains with the Commission until such time as these towns, individually, opt to assume local control."

Proposal and subdistricts proposed for development

Hancock Wind, LLC proposes to construct the Hancock Wind Project, consisting of 18 turbines, new and upgraded existing access roads, a 34.5 kV electrical collector line, and an addition to the existing Bull Hill Wind substation where the collector line connects the project to the existing 115 kV Bangor Hydro Electric Company Line 66 (collectively, the Project). With the exception of an Operations & Maintenance (O&M) building, which will be located in the organized Town of Aurora², 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), Shoreland Protection (P-SL), and Wetland Protection (P-WL) subdistricts. The Project will be located entirely within the expedited permitting area for wind energy development.

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.

² The Town of Aurora is not within the jurisdiction of the Commission.

- 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 Hancock Wind, LLC, the LUPC, through its staff, determines that:

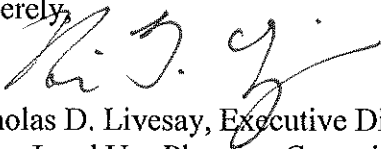
1. All parts of the Project, as proposed, are a wind energy development;
2. All parts of the Project, as proposed, with the exception of the O&M building, will be located in the unorganized townships of T16 MD BPP, T22 MD BPP and Town of Osborn, Hancock County;
3. The portions of T16 MD BPP, T22 MD BPP, and the Town of Osborn 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, and (P-WL) Wetland Protection Subdistricts, wind energy development is an allowed use. (*See* Chapter 10 of the LUPC’s Land Use Districts and Standards, Sections 10.22,A,3,c(27); 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 Hancock Wind. The LUPC will conduct a further review of the request for certification, including all 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 by email [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
Dave Fowler, First Wind
Samantha Horn-Olsen, LUPC Planning Manager
Marcia Spencer-Famous, LUPC Senior Planner