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# Memorandum

**To:** Commissioners

**From:** Stacie R. Beyer, Chief Planner

**Date:** November 3, 2016

**Re:** Commission Deliberations on the Rulemaking Petition to Remove Milton Township, Oxford County from the Expedited Permitting Area for Wind Energy Development

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## Background and Introduction

On January 8, 2016, the Commission received a petition to remove Milton Township (Milton) from the expedited permitting area for wind energy development (expedited area). Subsequently, the Commission received a timely request for substantive review of that petition. On August 10, 2016, the Commission held a public hearing to receive testimony and evidence from the Substantive Review Requestor, Petition Circulator, and members of the public. In addition, individuals and organizations submitted written comments and rebuttal during the publically noticed comment period. Staff requests that at its November 9<sup>th</sup> meeting, Commissioners discuss the petition and provide guidance to staff in drafting the appropriate decision documents for consideration at its December regular business meeting.

In considering what action to take on the rulemaking petition, the Commission may:

- 1) **Leave Milton in the expedited area:** To accomplish this, the Commission would decline to adopt the rule. Staff would draft a memorandum of decision for the Commission's consideration.
- 2) **Remove Milton from the expedited area:** To accomplish this, the Commission would decide to adopt the proposed rule. The staff would draft the adoption paperwork, including the draft rule, a basis statement, and a summary and response to comments for the Commission's consideration.
- 3) **Ask for more information:** The Commission could decide it needs additional information, in which case, the Commission would need to issue a new public notice and reopen the public record.

## **Summary of the Rulemaking Record**

All of the pre-hearing submissions, written testimony and public comments, and the audio recordings of the hearing for the Milton removal petition are available on the Land Use Planning Commission (LUPC) FTP site and website.

In total, the Commission received written submissions, testimony and comments from the Substantive Review Requestor, potential wind power developer, the Petition Circulator, over 80 interested persons, and 8 governmental agencies.

This memorandum summarizes the key issues covered in those materials.

## **Commission Deliberation**

To assist the Commission in its deliberation, staff has created decision factor summary tables, which are attached as Appendix A. The summary tables are based on the staff analysis intending to help focus the Commission's discussion on the factors that staff believes are key to the decision in this matter. In the balancing that the Commission must do in applying the removal criteria, there are a number of important factors to consider, including: progress toward the State's energy goal; wind energy potential in Milton; potential impacts of wind energy development to natural, recreational, and scenic resources; and potential impacts to economic development and the community character of Milton. Among these factors, as laid out below, there are two in particular that staff is unsure how to weigh – potential impacts to recreational resources and scenic resources. How the Commission weighs these factors will be central to the Commission's decision of whether the proposed removal of Milton from the expedited permitting area satisfies the statutory criteria. This is illustrated in the summary tables.

Also to aid the Commission, staff has included a “guide for deliberation” at the end of this memo just before the tables. The discussion guide provides one possible path to organizing the Commission's discussion in a way that is intended to ensure full consideration of all factors of the decision making criteria in a logical manner.

# Staff Analysis and Guide for Deliberation

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## REVIEW OF CRITERION A

***Criterion A. The proposed removal will not have an unreasonable adverse effect on the State's ability to meet the state goals for wind energy development in section 3404, subsection 2, paragraph C.***

### **I. Framework for Review**

Application of Criterion A involves developing an understanding of where the State stands with regard to achieving its goal for installed capacity of wind energy development by the year 2030. The greater the additional capacity needed to achieve this goal, the more important it is for there to be good locations available for wind power development. All areas within the existing expedited permitting area are not the same. For example, the wind resources, public resources, transmission infrastructure, and existing land uses all differ from place to place. As a result, some areas are better suited for wind power development than others. Removal of the better suited locations from the expedited permitting area could have an unreasonable adverse effect on the State's ability to meet its goal.

To illustrate the type of assessment and balancing that must be done in applying Criterion A, the Commission has explained:

“[A] place that has limited potential for energy generation and that would be subject to disproportionate impacts on public resources from wind power development is the type of place the Commission likely would find provides little value toward achieving the State's goal. This type of place likely could be removed from the expedited permitting area without having an unreasonable adverse effect on the State's ability to meet the goals for wind energy development. In contrast, a place that has the potential for exceptional power generation, even though wind power development might have some impacts on public resources or existing uses, could be the type of place the Commission would find provides significant value towards achieving the State's goals. Removal of this type of place from the expedited area might have an unreasonable adverse effect on the State's ability to meet its goals.”

*Overview of the Process for the Maine Land Use Planning Commission's Review of Petitions for the Removal of Places from the Expedited Permitting Area for Wind Energy Development (the Process Overview Document) at 5 (Dec. 2015).* These examples involve hypothetical areas where evaluating whether Criterion A is satisfied is relatively straight forward; these hypotheticals are solely intended to show the balancing the Commission must undertake in applying the criteria.

As discussed below, whether the removal of Milton from the expedited permitting area will have an unreasonable adverse effect on the State's ability to meet its 2030 wind energy goal is more complex. In evaluating whether removing Milton would have an unreasonable adverse effect and fail to satisfy Criterion A, the first step is to assess the progress the State has made in achieving the 2030 goal. From there, the State's need for additional installed wind energy capacity in order to achieve its goal and Milton's potential for wind energy development is balanced against the impact to local communities and public resources, together characterized as public resource values.

The evaluation of Criterion A that follows is organized according to that framework and involves a summary of testimony and accompanying staff assessment of:

- A) Progress toward the State’s 2030 energy goal,
- B) Potential for wind energy development in Milton, and
- C) Impacts to public resource values.

## **II. Evaluating the Effect of Removal on the State’s Ability to Meet its Wind Energy Goal**

### **A. Progress Toward the State’s 2030 Energy Goal**

Title 35-A, Section 3404(2)(C) establishes a 2030 goal for wind energy development in the State as 3,000 megawatts (MW) of installed onshore capacity. The record contains data compiled from submissions by the Department of Environmental Protection and the LUPC indicating that Maine currently has wind energy projects either operational, under construction, or permitted with name plate capacity of approximately 927 MW of wind energy. Therefore, to achieve its goal, the State will need an additional 2073 MW of installed onshore capacity by 2030.

There is testimony and evidence in the record showing that the Independent System Operator (ISO-NE) for the New England bulk power transmission system currently has 3,631 MW of onshore wind capacity projects pending interconnection requests in northern and western Maine. The Petition Circulator and other interested persons asserted that the pending capacity should be considered by the Commission, and, based on that pending capacity which exceeds 3000 MW, removal of Milton from the expedited area would not have an unreasonable adverse impact on the State meeting its wind energy goal. However, the record also includes public hearing testimony indicating that proposed projects in the ISO Generator Interconnection Queue do not always advance to project development. According to ISO, the interconnection process consists of multiple phases including an interconnection studies phase, and, during that phase, infrastructure and upgrades are identified to ensure that the interconnection can be done reliably with no adverse impact on the existing power system. The cost of any necessary infrastructure and system upgrades to maintain system reliability are the responsibility of the project developer. According to the public hearing testimony of Jeffrey H. Fenn, P.E., a power systems engineer with SGC Engineering, less than 5,000 MW out of a total of 65,000 MW of proposed interconnections since 1996 proceeded to the next stage of filing an interconnection application.

**Staff Assessment:** Considerable progress remains necessary for the State to achieve its wind energy goal for 2030. Although there is a substantial amount of generating capacity in the ISO Interconnection Queue, it is likely that only a small fraction of that capacity will proceed to a project development stage based on the historical data in the record. Removal of areas better suited for wind power development from the expedited permitting area will have an adverse effect on the State’s ability to meet its 2030 goal.

### **B. Potential for Wind Energy Development in Milton**

#### **1. Availability of Sites**

In pre-filed testimony, the Petition Circulator provided excerpts from a Maine Audubon report, *Wind Power and Wildlife in Maine*, that indicates there are 1.1 million acres of land in Maine that are viable for wind energy development, and only 15% of that acreage would have to be developed to meet the state wind energy goals. The Petitioner asserted, with the amount of land suitable for

wind energy development, removal of Milton's 9,600 acres will not have an unreasonable adverse impact on the State's ability to meet its wind energy goals. The analysis on the amount of land area suitable for wind energy development in the Audubon report included land modeled as a viable wind resource (i.e. sufficient wind speeds), and excluded developed areas, conservation land, and steep slopes. However, the report recognizes that siting a wind energy development is a complex process, and lists other factors not included in the Audubon analysis, that would need to be considered.

EverPower Wind Holdings, Inc. (Everpower), a wind energy developer with 752 MW of operating wind energy capacity, described in its pre-filed testimony 10 major factors that the company uses to select areas for further development, including such factors as construction cost, economic competitiveness, large blocks of contiguous land perpendicular to the wind, transmission infrastructure, regulatory setback requirements, and scenic resources. EverPower testified that, given all the factors limiting the availability of sites for wind energy development, all suitable areas need to remain available for development to make meaningful progress in meeting the State's wind energy goals.

Many of the site selection factors identified by EverPower were not considered in the Maine Audubon report. It appears credible that site selection factors, such as those identified by EverPower in its testimony, place limits on the availability of sites for wind energy development in Maine.

## **2. Wind Resource**

A key factor in determining if a site is suitable for wind energy development is the quality of the wind resource. EverPower testified that a site must have a minimum of 6.5 to 7.0 m/s annual average wind speeds to compete in the current market. The company provided site specific data from an ongoing meteorological data campaign on Bryant Mountain in Milton and a report from EverPower's Wind Resource Department Director predicting mean annual wind speeds in the range of 6.0 to 7.5 m/s at the expected hub height for a wind energy turbine. The report indicates that, based on the area studied, Milton is expected to be viable for a wind power project that will be able to use a wide variety of wind turbine generators.

EverPower has demonstrated that an adequate wind resource exists in Milton Township.

## **3. Transmission Capacity**

Another key factor in the viability of a wind site is the adequacy of transmission capacity. On this issue, EverPower testified that smaller wind energy projects cannot afford lengthy and costly generator lead lines, and that a project in Milton would have one of the shortest generator lead lines in Maine, approximately one mile in length, to connect to existing transmission infrastructure. Also, the company testified that Milton is located in the western part of the Maine ISO-NE system, which has the ability to flow the power into southern New England. Everpower's testimony is supported by a report from SGC Engineering on the proximity to the existing electrical grid and the adequacy of the existing transmission lines.

ISO-NE provided an overview of the existing transmission system and constraints in Maine. They commented that the transmission system in Maine is limited in places and faces numerous transmission security concerns, which could include lines that overheat when overloaded leading to

damaged equipment. Further, the system often exceeds its ability to accommodate all the electricity produced. In some instances, ISO-NE reports having to curtail generators in the northern areas of the region because more power is being produced than the small, long transmission lines can handle safely. They conclude, “The existing transmission system is at its limit with no remaining margin. Significant infrastructure is needed to integrate the quantity of proposed new wind generation in Maine.”

In response to ISO-NE testimony, Jeffrey Fenn testified that, although constraints exist, the existing transmission system should be able to accommodate a wind energy project in Milton. Supported by a March 28, 2016 ISO-NE report, *2015 Economic Study Strategic Transmission Analysis – Onshore Wind Integration Draft Results* (“ISO Economic Study”), Fenn testified that the most constrained interface in the New England system is the Orrington-South interface, in particular, north of Keene Road. A project in Milton, located in western Maine, would not be affected by the constraints in the system to the north. The record does show that a project in Milton would be subject to constraints at the Surowiec-South and Maine-New Hampshire interfaces. Fenn testified that the ISO-NE Economic Study looked at those constraints and the impact they might have on wind generation, and, that under most of the scenarios studied, concluded the impacts are minimal. Fenn further testified that the constraints do not significantly affect wind resources, which do not operate at peak capacity during periods of maximum constraint in the New England system (summer).

**Staff Assessment:** EverPower has demonstrated, with a review of site selection factors, site specific wind resource data, and an analysis of transportation opportunities and constraints, that Milton has a reasonably good potential for wind energy development; the potential for wind energy development is neither limited nor exceptional. That assessment, combined with the need for additional wind energy to meet the State goal, weigh in favor of Milton remaining in the expedited permitting area. Whether removal of the township will have an unreasonable adverse effect on the State’s ability to achieve its 2030 goal hinges on whether Milton is well suited for wind power development when balancing its wind power potential and the need for additional megawatts of installed capacity with the potential impacts to public resource values. Public resource values are discussed below.

### **C. Impacts to Public Resource Values**

In applying Criterion A and evaluating the reasonableness of the impact that removal of Milton would have on the State’s ability to meet its wind energy goal, the need and potential for wind energy development should be balanced against the impact to local communities and public resources, together characterized as public resource values. Public resource values identified in the Commission’s Comprehensive Land Use Plan (CLUP) range from natural, scenic, recreational and cultural resources to energy and economic resources.

To provide guidance on achieving the vision for its service area, the Commission has established principal values and both broad and specific goals that address public resource values. The second criteria that the Commission must consider in its decision on the Milton removal petition – Criterion B – relates to consistency with the principal values and goals of the CLUP. Before assessing potential impacts to public resource values in general, it makes sense to first consider each of the principal values and goals of the CLUP. The Commission will then be better positioned to evaluate the overall net impact to public resource values associated with potential wind power development in Milton and balance those impacts with wind power potential and State need. Through this balancing, the Commission can determine whether, overall, Milton is well suited for wind energy development. If it is not well suited, the proposed removal will not have an unreasonable adverse

effect on the State's ability to meet its 2030 goal. Criterion A would then be satisfied and support removal.

**Staff Assessment:** Based on staff's review of public resource values identified in the CLUP and discussed in the Review of Criterion B, Section II, below, whether Milton is well suited for wind energy development depends on whether potential wind energy development would have a disproportionate impact on scenic and recreational resources, natural resources, and/or community character. Among these factors, there are two in particular that staff is unsure how to weigh – potential impacts to recreational resources and scenic resources. How the Commission weighs these factors will be central to the Commission's decision of whether the proposed removal of Milton from the expedited permitting area satisfies the statutory criteria. These two public resource values are discussed under Review of Criterion B, Sections II,B,2,e and f.

## REVIEW OF CRITERION B

*Criterion B. The proposed removal is consistent with the principal values and the goals in the comprehensive land use plan adopted by the Maine Land Use Planning Commission pursuant to Title 12, section 685-C.*

### I. Framework for Review

The CLUP contains four principal values and multiple goals. Together, the principal values are intended to define the distinctive character of the unorganized and deorganized areas of the State, but it is recognized that these values are not represented equally across all towns, plantations, and townships served by the Commission. Retaining the principal values is an objective the CLUP is intended to further. The CLUP also is intended to provide a vision for the unorganized and deorganized areas. As stated earlier, the CLUP's goals are intended to help achieve this vision.

The principal values do not exist in isolation, are interconnected, and sometimes are in tension. The CLUP's goals may at times conflict with one another. Often, the specific goals of the CLUP themselves contain multiple factors that need to be weighed for consistency determinations. In some cases, important factors are included in more than one specific goal. As a result, evaluating the consistency of removal of a place from the expedited permitting area with the principal values and goals in the CLUP involves a balancing. One of the Commission's primary roles is to interpret the CLUP and apply it in a manner consistent with State statute. This is a role called upon in the application of Criterion B.

All of the principal values and some of the goals contained in the CLUP are relevant to the expedited area removal process. The CLUP divides the goals into two general categories, broad goals and specific goals. The broad goals are furthered by the specific goals; thus, the evaluation of consistency with the goals of the CLUP called for in Criterion B is achieved through review and consideration of the specific goals that are relevant to the Commission's decision on the removal petition. Goals that staff believes are irrelevant to the proceeding, for which removal would neither be consistent nor inconsistent, are listed for reference in Appendix B. The goals relevant to the CLUP consistency analysis, along with the principal values, are discussed below.

Key goals that staff believes are particularly important to the CLUP consistency analysis that follows are the goals for recreational and scenic resources. Staff believes the decision on whether removal of Milton from the expedited area would be consistent with these two goals is a close call. Given the evidence in the record, there is a direct correlation between the recreational resources in the Milton area and scenic resource values. Important to the discussion of scenic resources is the fact that the resources identified in the record for the Milton area do not meet the definition of scenic resources of state or national significance. Therefore, the scenic standard contained in the Wind Energy Act does not protect those resources within Milton in the expedited permitting area. Central questions for the Commission's decision in this proceeding are whether scenic resources in and around Milton have sufficient value to be considered high-value resources as used in the context of the CLUP's scenic resources goal and do those resources warrant protection that is not currently provided by the scenic impact standard of the Wind Energy Act. Further discussion on recreational and scenic resources is contained in Criterion B, Sections II,B,2,e and f below.

## II. Evaluating Consistency of Removal with the Principal Values and Goals of the CLUP

### A. Consistency with the Principal Values of the CLUP

#### 1. Economic Value of the Jurisdiction

*“The economic value of the jurisdiction derived from working forests and farmlands, including fiber and food production, largely on private lands. This value is based primarily on maintenance of the forest resource and the economic health of the forest products industry. The maintenance of farmlands and the viability of the region's agricultural economy is also an important component of this value.”*

There is testimony in the record about the downturn of the forest products industry and the associated economic impact on the region. There is also testimony and evidence to indicate that wind energy development can enhance the value of and help to maintain working forests. In support, a policy paper developed and submitted by the Maine Forest Products Council (MFPC), *Wind power in the managed forest*, states that “landowners need diverse income streams to balance the cyclical nature of wood pricing and long time frames for returns on investment.” The paper concludes that wind power can be part of a long-term sustainability plan for working forests and is compatible with other forest uses. There is no indication in the record that farmlands would be impacted by wind energy development in Milton or of a significant agricultural economy in region.

**Staff Assessment:** Based on the discussion above, in terms of wind energy development’s beneficial relationship with the working forest, it appears that removal of Milton from the expedited area would not be consistent with the economic value of the jurisdiction derived from working forests.

#### 2. Diverse and Abundant Recreational Opportunities

*“Diverse and abundant recreational opportunities, including many types of motorized and non-motorized activities. Unique opportunities exist for recreational activities which require or are significantly enhanced by large stretches of undeveloped land, ranging from primitive recreation in certain locations to extensive motorized trail networks. Recreation is increasingly an economic driver in the jurisdiction and the State.”*

Based on evidence in the record, recreation and tourism appear to be important economic drivers in the broader region. Within Milton and the nearby communities, primarily Woodstock, recreation opportunities are locally important, but do not appear to be a significant economic driver. This principal value speaks to unique recreational opportunities requiring large stretches of undeveloped land. An important consideration for this value is that Milton is surrounded by organized municipalities and bisected by public roads. Relatively speaking, the township is not remote and has less opportunity for large blocks of undeveloped land. No unique recreational opportunities have been identified in the record.

**Staff Assessment:** In terms of diverse and abundant recreational opportunities, there is conflicting testimony on the potential impacts to various existing recreational uses and opportunities in Milton. (See Section II,B,2,g below.) As previously noted, recreational opportunities and resources are key issues for the Commission’s decision in this matter. While removal of Milton is consistent with this

principal value, in that it would not reduce existing recreational opportunities, given the value's focus on large stretches of undeveloped land, which Milton is not characterized by, removal does little to promote this value either. Additionally, Milton and the nearby communities offer recreational opportunities that are highly valued by those living there, but these opportunities do not appear to be unique.

### **3. Diverse, Abundant and Unique High-value Natural Resources and Features**

*“Diverse, abundant and unique high-value natural resources and features, including lakes, rivers and other water resources, fish and wildlife resources, plants and natural communities, scenic and cultural resources, coastal islands, mountain areas and other geologic resources.”*

There are no lakes or ponds located in Milton. Two rivers and multiple streams are located in the township, but outside areas that would likely be proposed for wind energy development. Specific impacts to small streams and wetlands would be assessed and reviewed as part of a permit application review process. Milton does have wildlife resources, at least one of which is unique and of high value, the bat hibernaculum providing overwintering habitat for several species of threatened and endangered bat species. There are also scenic resources in the township and surrounding area.

**Staff Assessment:** There are multiple natural resource components included in this principal value, which are also included in separate but related specific goals of the CLUP. For a full discussion of natural resources and features, please see the analysis of each component of this principal value in Section II,B,2 below. Overall, however, removal of Milton from the expedited permitting area would be consistent with this principal value. The extent to which removal would further this value depends, in part, on whether the Commission determines scenic resources in and around Milton are of “high value”.

### **4. Natural Character**

*“Natural character, which includes the uniqueness of a vast forested area that is largely undeveloped and remote from population centers. Remoteness and the relative absence of development in large parts of the jurisdiction are perhaps the most distinctive of the jurisdiction's principal values, due mainly to their increasing rarity in the Northeastern United States. These values may be difficult to quantify but they are integral to the jurisdiction's identity and to its overall character.”*

This value speaks largely to remoteness and large blocks of undeveloped land. As noted above, Milton is not, relatively speaking, a remote area. It is surrounded by organized municipalities. Existing development in Milton includes public roads, and seasonal and year-round residential homes. An existing wind energy project is located in the adjacent town of Woodstock, and is prominent in the landscape in certain places. However, the primary land use in Milton is forest management, there is a sizeable block of land in the center of the township under conservation easement, and, as testified by the Petition Circulator, the township has a relative absence of development compared to the municipalities that surround it. It is likely due to that relative absence of development that led a number of interested persons to comment on the “remoteness” of the area. In his public hearing testimony, Ed Rosenberg provided a number of photographs of the area showing old farms and other residential homes located primarily at the base of Chamberlain

Mountain in the Towns of Milton, Woodstock, and Bethel. The photographs depict scattered rural residential development with backdrops of undeveloped mountainsides and ridgelines. As described in more detail under the specific goal for site review (Section II,B,1,c), testimony in the record demonstrates that the surrounding mountain scenery contributes significantly to the natural character of the area.

**Staff Assessment:** Within the area served by the Commission, Milton is not remote or characterized by vast undeveloped forest land. Nevertheless, natural character is not only defined by remoteness and, among areas with resident populations, Milton has limited development. Wind energy development on the undeveloped ridgelines of Milton would alter the scenic quality of those resources and adversely impact the natural character of the area. Therefore, it appears that removal of Milton from the expedited area would be consistent with the natural character principal value.

## **B. Consistency with the Goals of the CLUP**

The specific goals of the CLUP are grouped into four broad categories, two of which contain goals relevant to the present analysis – Development Goals, and Natural and Cultural Resources Goals.

### **1. Development Goals**

#### **a. Location of Development**

*“Guide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another and to allow for a reasonable range of development opportunities important to the people of Maine, including property owners and residents of the unorganized and deorganized townships.” (Goal I.A.)*

The result of the Commission’s decision on the Milton removal petition will determine whether or not wind energy development will be an allowed use in Milton, which provides an opportunity for the Commission to proactively guide the location of windpower development. In considering this goal, the CLUP includes helpful language on siting waste disposal, energy and utility facilities. The CLUP recognizing that, “[g]enerally speaking, these facilities are best located in areas on the edge of the jurisdiction with good existing road access but low natural resource values” (CLUP, 142). A CLUP policy on the location of development guides development to areas near existing towns and communities (CLUP, 6). As already discussed, Milton is unique in its location, being completely surrounded by organized municipalities, having two parallel 115 kV transmission lines nearby, and having good existing road access. The record includes evidence on the compatibility of wind energy development with Milton’s primary land use, forest management. Recreational and natural resources are discussed in more detail under the specific goals for those resources in Sections II,B,2,g and f below.

**Staff Assessment:** Given Milton’s location and existing infrastructure, it appears that Milton is a suitable location for wind energy development. Pending the Commission’s determination on recreational and natural resource values, it appears that removal of Milton from the expedited area is not consistent with this goal.

## **b. Economic Development**

*“Encourage economic development that is connected to local economies, utilizes services and infrastructure efficiently, is compatible with natural resources and surrounding uses, particularly natural resource-based uses, and does not diminish the jurisdiction’s principal values.” (Goal I.B.)*

The record includes conflicting testimony relating to the potential impacts of the removal petition on two of the primary economic drivers in the region – forest products and tourism/recreation. Stantec Consulting Services (Stantec), on behalf of EverPower, testified that the primary land use in Milton is forest management, and that wind energy development is compatible with that use. They further testified that wind energy development can provide an additional source of economic value for forest landowners, helping to preserve the forest economy, especially as the value derived from timber production declines. Stantec quoted as evidence a study coordinated and managed by the University of Maine’s Center for Research on Sustainable Forests, *Keeping Maine’s Forests: A Study of the Future of Maine’s Forests*, November 2009 (the Sustainable Forests Report).

EverPower, as well as other interested persons, also testified on the economic benefits of wind energy development to local landowners, the host community, and the broader region from tangible benefits, taxes, annual project funds, and direct and indirect spending during construction and the operational life of a project. EverPower supported its testimony on economic impacts with data from a Job and Economic Development Impact model created by the United States National Renewable Energy Laboratory. Several interested persons cite a report by Charles S. Colgan, PhD, on the “Economic Impacts of Wind Energy Construction and Operation in Maine, 2006-2018.” According to Constance Haas, a resident and property owner in Milton, removal of Milton from the expedited area would disadvantage the township by eliminating a form of economic development that it desperately needs.

The Petition Circulator testified that tourism is the largest industry in Maine, providing data on payroll, and sales and services, which she stated directly affects people from local communities. Her conclusion was that tourism is much more important economically and should not be lost to wind energy development. The Maine Department of Economic and Community Development provided a copy of a report “Comprehensive Economic Development Strategy Update- March 2016,” published by the Androscoggin Valley Council of Governments, containing information on the economic conditions within the Androscoggin Valley Economic Development District, which includes the Milton area. The report finds downtown services and healthcare employing the largest number of workers in the district, followed by post-secondary education, and tourism. The Town of Woodstock testified that their greater community gains from the economic vitality of outdoor activities and scenic views. Finally, the Bureau of Public Lands concluded in their review that commercial interests including skiing and tourism are central to the broader area’s recreational character.

There is also testimony in the record from Scott Gould, owner of a bed and breakfast in Bethel, as well as rental properties on Concord Pond and North Pond, in Woodstock. Gould testified that the tourism industry is vital to the economics of the surrounding areas, the area needs economic growth in the tourism industry, and the important natural resources, particularly scenic mountain views, need to be conserved. In his opinion, wind energy development would have a negative impact on the area’s tourism industry, diminishing the principal values on which the industry is based.

**Staff Assessment:** Given the existing road and transmission infrastructure in the area, it is likely that wind energy development in Milton could utilize services and infrastructure efficiently. Wind power is compatible with forestry and some types of surrounding recreational uses, such as snowmobiling, ATV riding, and hunting. Wind power development is not compatible with types of outdoor recreation that are more dependent on scenic resources. While tourism and outdoor recreation is important in the broader regional economy, that appears to be less the case in Milton and the nearby communities, primarily Woodstock. Evidence suggests that potentially impacted recreational resources in and around Milton are disconnected from the more abundant recreational opportunities within the Mahoosuc Region. Evidence also indicates Milton is 10 miles or more from the majority of prominent recreational features in the region. There is no evidence in the record that removal of Milton from the expedited area would encourage additional recreational development or growth in the regional tourism industry. The potential impact of wind power in Milton on the regional tourism economy appears limited. In contrast, there is evidence in the record that removal would discourage wind energy development that data shows would have a positive economic impact in Milton. Finally, while wind power development in Milton would not further all four of the principal values in the CLUP, on balance it does not appear to diminish them either. Overall, it appears that removal would not be consistent with the economic development goal.

### c. Site Review

*“Assure that development fits harmoniously into the existing communities, neighborhoods and the natural environment.” (Goal I.C.)*

The Commission received conflicting testimony about how well or poorly a wind energy development would fit within the existing communities in the region. The record includes testimony on the compatibility of wind power with the primary land use, forest management, and other forest uses. The record also includes testimony and evidence on the character of existing communities and neighborhoods in and around Milton.

Michael Dunn described Milton this way, “Milton is a mere 15 square miles with the majority of its residents in two river valleys along the bases of Bryant and Chamberlain Mountains...The total distance between Route 232 and the East Milton Road, where most residents live, is a little less than 2 miles.” Two mountains suitable for wind energy development in Milton are located between the two roads. One neighborhood, in particular, located on the Roger Farnum Road at the base of Chamberlain Mountain, has 11 existing homes that Dunn described as a “quiet little community.” Ed Rosenberg provided a number of photographs showing old farms and other residential homes located primarily at the base of Chamberlain Mountain in Milton, and the Towns of Woodstock and Bethel. The photographs depict scattered rural residential development with backdrops of undeveloped mountainsides and ridgelines. According to Scott Gould, owner of a bed and breakfast in Bethel and rental property on Concord Pond and North Pond in Woodstock, “People travel here [the greater Bethel area] because of the Character displayed by Bethel Maine, “Maine’s Most Beautiful Mountain Village” and for the wonderful scenery provided by the Androscoggin River Valley and the area’s tranquil ponds and lakes. The character of the area is built on beautiful mountain scenery...”

**Staff Assessment:** An important question associated with consideration of this goal is whether construction of a grid-scale wind energy development would fit harmoniously into the communities and neighborhoods around the bases of the western mountains in Milton. In the CLUP, site review is discussed in Section 4.3.C (p. 64) and this discussion focuses on ensuring harmonious fit through

the permitting process. The site review policies in the CLUP largely focus on requirements and objectives achieved through the application of permit review standards. With regard to wind power, since the last revision of the CLUP, the Department of Environmental Protection (DEP) now regulates grid-sale wind energy development in the unorganized and deorganized areas of the State. Although DEP administers a statutory standard in the Site Location of Development Law that requires harmonious fit, it does not appear that this statutory provision and DEP administration of it fully captures and advances the Commission's site review goal, with a focus on existing communities and neighborhoods, in addition to the natural environment. As a result, consistency with this goal cannot be achieved solely through reliance on the permitting process. The weight of the testimony and evidence in the record from local residences and communities suggests wind power in Milton would not fit harmoniously into the communities and neighborhoods around the base of the western mountains in the township. As a result, removal of Milton from the expedited area would be consistent with this goal.

## **2. Natural and Cultural Resources Goals**

### **a. Air and Climate Resources**

*“Protect and enhance the quality of air and climate resources throughout the jurisdiction.” (Goal II.B.)*

There is credible testimony and evidence in the record on wind power's beneficial effect on air and climate resources through reduction in greenhouse gas emissions. In particular, the Maine Renewable Energy Association provided data from the Sustainable Energy Advantage on reduced CO<sub>2</sub>, SO<sub>x</sub> and NO<sub>x</sub> emissions from wind farms operating in Maine. Given the higher bar associated with certain permitting standards applicable to wind energy projects that are located outside the expedited permitting area, it seems reasonable that removal of a place from the expedited area will discourage the development of wind energy facilities.

**Staff Assessment:** Given the benefits of wind energy shown in the record, staff believes removal of Milton from the expedited area would not be consistent with protecting and enhancing the quality of air and climate resources in the Commission's service area.

### **b. Energy Resources**

*“Provide for the environmentally sound and socially beneficial utilization of indigenous energy resources where there are not overriding public values that require protection.” (Goal II.E.)*

Other than wind energy development, no potential projects utilizing indigenous energy resources have been identified in the record for Milton. Removing Milton from the expedited permitting area would make projects using an indigenous energy resource, specifically wind, for renewable energy production no longer an allowed use in the township. By itself, this does not appear to be supportive of environmentally sound and socially beneficial utilization of indigenous energy resources.

**Staff Assessment:** Unless the Commission determines that there are overriding public values that require protection, staff believes granting the removal petition is not consistent with this goal.

### c. Forest Resources

*“Conserve, protect and enhance the forest resource in a way that preserves its important values, including timber and fiber production, ecological diversity, recreational opportunities, as well as the relatively undeveloped remote landscape that it creates.” (Goal II.F.)*

As stated earlier in this analysis, there is testimony and evidence in the record to indicate that wind energy development can enhance the value of and help to maintain the working forest. The policy paper developed and submitted by the MFPC, *Wind power in the managed forest*, concludes that wind power can be part of a long-term sustainability plan for working forests and is compatible with other forest uses. MFPC also commented that wind power development represents a small percentage of forest acreage, typically located in areas that are less suitable for growing trees, while providing improved access for landowners, enhanced firefighting capability, and increased access for traditional recreational uses.

Wind energy development would not preserve a relatively undeveloped remote landscape. However, as discussed above, Milton is not, relatively speaking, remote and undeveloped.

**Staff Assessment:** Based on testimony in the record regarding the benefits of wind energy development in the working forest, staff believes removal of Milton from the expedited area would not be consistent with the forest resources goal.

### d. Plant and Animal Habitat Resources

*“Conserve and protect the aesthetic, ecological, recreational, scientific, cultural and economic values of wildlife, plant and fisheries resources.” (Goal II.H.)*

Goal relating to plant and fisheries resources: Staff believes this issue could be effectively dealt with at the permitting stage since the decision making criterion is the same in either case.

Goal relating to wildlife resources: The Maine Department of Inland Fisheries and Wildlife (MDIFW) provided a review of wildlife species and habitats in Milton, including a list of 14 endangered, threatened, and special concern species that are confirmed or likely to be present in Milton. The list provided by MDIFW includes one federally listed threatened bat species, the Northern Long-eared Bat; one State endangered bat species, the Little Brown Bat; and one State threatened bat species, the Eastern Small-footed Bat. In general, the wildlife species and habitats included in MDIFW’s review are not unique to Milton and staff believes issues related to potential impacts to most wildlife species and habitats could be addressed in a permit application review process. However, according to MDIFW, the bat hibernaculum located in Milton is unique.

MDIFW bases their comments on the importance of the Milton hibernaculum on the following:

- Maine’s bat population has experienced a precipitous decline;
- The State’s wintering population of cave bats has declined by 90% due mainly to the disease, white nose syndrome;
- The surviving bats represent the only possibility to rebuild the population;
- The cave in Milton is one of only three known in Maine;
- The cave hosts the largest overwintering population of bats, including all three federally and state listed endangered and threatened species, and all five Maine cave-dwelling bat species; and

- Wind energy development in Maine has caused mortality in bats including impacts to the endangered, threatened, and special concern species.

MDIFW is concerned that, with any additional wind energy development in the Milton area, cave-dwelling bats will be seasonally at increased risk due to staging and migration in and out of the hibernaculum. They stated that "...we are left with remnant numbers of several *Myotis* bats<sup>1</sup> for which any and all additional mortality should be avoided or minimized."

EverPower contends that potential impacts to bats, including cave-dwelling bat species, can be adequately addressed in the permit application review process. Stantec testified on behalf of EverPower, concerning the status of the hibernaculum, threats to the hibernaculum, and threats to bats. Stantec provided that the hibernaculum is more than 2.5 miles away from potential wind energy development sites in western Milton, that the Concord River Easement property bisecting Milton provides a buffer for the hibernaculum from future development, and, due to foraging and flight behavior of cave-dwelling bats, they make up a small percentage of wind-related mortalities. Stantec further stated that ongoing research indicates a distinct relationship between bat activity and weather conditions, specifically wind speeds and temperatures. They conclude that the growing body of evidence offers greater opportunity to reduce the risk of collision-related bat mortality through project-specific operational curtailment (shutting down turbines during certain conditions to reduce potential impacts).

**Staff Assessment:** The bat hibernaculum is recognizably a resource of state-wide importance. The record contains credible evidence relating to this unique and valuable resource. However, wind energy development in Milton is not likely to have a direct impact on the hibernaculum itself. As stated by MDIFW, cave-dwelling bats will be seasonally at increased risk due to staging and migration in and out of the hibernaculum. The increased risk relates to bat mortality from collisions with operating wind turbines. Given that bat activity in and around the hibernaculum is seasonal, activity patterns and the range of movements from bats using the hibernaculum are site specific, and not well studied (Exhibit 8.2.2, MDIFW), and that project-specific operational curtailment and other best practical mitigation techniques can reduce the risk of bat mortality, staff believes that potential impacts to cave-dwelling bats are best addressed using site specific data during a permit review process. This is supported by comments from MDIFW indicating that, in reviewing a specific project, their recommendations take into account objectives and goals for the protection of at-risk species in consideration of their particular needs and characteristics. MDIFW states their curtailment recommendations are based on project and resource specific considerations, as well as other relevant factors. Based on the staff analysis, it is reasonable to conclude that removal of Milton from the expedited area will be consistent with the habitat resources goal, specifically by eliminating wind energy development as an allowed use, and protecting wildlife resources from impacts associated with wind energy development. However, it also makes sense to give less weight to this goal in the Commission's balancing of all principal values and specific goals because the protection of the habitat resources in Milton can be adequately addressed during a permit review process. Removal of Milton from the expedited area is not necessary to ensure protection of the bat hibernaculum in Milton.

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<sup>1</sup> *Myotis* bats include the Northern Long-eared Bat; Little Brown Bat; and Eastern Small-footed Bat.

**e. Recreational Resources**

*“Conserve the natural resources that are fundamental to maintaining the recreational environment that enhances diverse, abundant recreational opportunities.” (Goal II.I.)*

Stantec testified that there are limited recreational opportunities within Milton and the opportunities are likely similar to those popular elsewhere in the region. They also testified that the local opportunities are disconnected from other recreational opportunities located outside of Milton, specifically in the Mahoosuc Region to the west. Recreational opportunities they list in their testimony included hunting, trapping, snowmobiling, and ATV riding, primarily on private forest lands that are not posted. Stantec asserted, and its conclusion is supported by comments from a number of interested persons, that wind energy development, and snowmobile and ATV use are compatible. Interested persons also commented on the compatibility of wind energy development with hunting, which can provide increased access to forest lands.

Stantec limited its assessment of recreational opportunities to the boundaries of Milton. However, in considering potential impacts from wind energy development, staff believes it is reasonable to consider potential impacts to significant recreational and scenic resources regardless of whether or not the resources are located in Milton or even in an area served by the Commission. The Land Use Planning Commission is a state agency charged with extending sound planning, zoning, and development to the unorganized and deorganized townships of the State for the public health, safety, and general welfare of the people of Maine. Additionally, extending the assessment of potential impacts to the communities surrounding Milton is consistent with past practice of the Commission in other development reviews.

The Maine Bureau of Parks and Lands, Outdoor Recreation Planner (BPL), described Milton as being situated in a mountainous and recreationally significant region of Maine, and surrounded by a mosaic of differing types of nature-based outdoor recreational assets. A majority of the prominent public recreational features listed in their comments are located 10 or more miles from Milton. One exception is Little Concord Pond, an undeveloped State park property, in Woodstock, approximately 1.5 miles from Milton. The park contains a hiking trail to the summit of Bald Mountain and Speckled Mountain. Based on LUPC staff knowledge and experience in the area, the existing wind project on Spruce Mountain is visibly prominent from the Bald Mountain trail and summit.

BPL also described trails in the region that are provided by private landowners and trail managers. Two in the Milton area included a trail to an open summit, managed by the Rumford Water District, on Mount Zircon; and the Androscoggin River Trail coordinated by the Androscoggin Watershed Council. BPL commented that driving for pleasure is also a component of recreation occurring in the region that relies on scenic values, and concludes that the mountains, woods, and waters serve as the foundation for the recreational values in the region.

The Petition Circulator testified that the greater Bethel area has a significant concentration of recreational values, and listed a number of resources described in her testimony as having “regionally important views,” including: the trails on Mount Zircon; North Pond, South Pond, and Round Pond; the University of Maine’s 4-H Camp and Learning Center on Bryant Pond; the Androscoggin River Trail; and pleasure driving along Route 26, Route 2, Route 232 and the Milton Road. Ed Rosenberg provided testimony on recreational resources and photographs of views from many of those resources. In particular, he provided testimony on nature trails that connect the

Woodstock school to multi-use trails leading to Bucks Ledge, Lapham Ledge, Moody Mountain and the summit of Champlain Mountain; photographs from the Greenwood Town Beach on South Pond, with views of Moody and Chamberlain Mountains; and photographs from Mount Zircon toward Chamberlain and Bryant Mountains. Rosenberg referenced in his testimony two magazine articles featuring pleasure driving and hiking trips with views of the mountains and ridgelines of Milton. The articles were “5 Fall Journeys,” DownEast Magazine, September 2006, that, according to Rosenberg, highlighted the five best foliage routes to take in western Maine and included a photographic view of Bryant and Chamberlain Mountains from North Pond in Greenwood; and “13 Amazing Maine Mountain Top Views,” MaineToday, January 2016, that, according to Rosenberg, included views from Mount Zircon toward Bryant and Chamberlain Mountains.

According to the Woodstock Conservation Commission (WCC), that organization maintains the referenced trails on Bucks Ledge and Lapham Ledge, with expansion of trails planned for Moody Mountain. They testified that the trails are used for hiking and winter skiing, and that Moody Mountain offers one of the few places with views of scenic mountain tops in all directions. The WCC provided photographs showing views from the trails toward mountains and ridgelines in Milton. Further, they commented that the existing Spruce Mountain towers are not visible from their trail network, but that wind energy development in Milton would be in the direct viewscape.

**Staff Assessment:** Based on the testimony of BPL, the Petition Circulator, Ed Rosenberg, the Woodstock Conservation Commission, and other local residents, there does appear to be diverse recreational opportunities in Milton and the surrounding region. In addition the area’s woods, mountains and waters, especially the scenic views of and from those resources, appear to be fundamental to the recreational environment. Due to the relationship between the recreational resources and scenic views, there is a direct correlation between the value of and any potential adverse impacts to scenic resources, and the recreational resource values in Milton. If the Commission finds that high value scenic resources would be adversely impacted by wind energy development in Milton, then it follows that the recreational resources dependent on those scenic resources would be similarly impacted. Further discussion on scenic resource values will inform the Commission’s determination on this goal.

Important questions for the Commission’s consideration are as follows:

What are the natural resources in the Milton area that are important to recreational opportunities in that area?

How would those resources be impacted by wind power development in Milton?

Is the level of impact to those resources and to recreation in the Milton area sufficient to conclude that removal would be consistent with the goal to conserve natural resources fundamental to maintaining diverse, abundant recreational opportunities?

## f. Scenic Resources

*“Protect the high-value scenic resources of the jurisdiction by fitting proposed land uses harmoniously into the natural environment.” (Goal II. J.)*

Central to the Commission’s consideration of this goal is the difference in the scenic standard that applies to projects inside versus those outside of the expedited area during a permit application review. For this discussion, it is important for the Commission to think about what resources have been excluded from protection with the change in the scenic impact standard implemented under the Wind Energy Act (WEA), as well as the level of protection warranted for those resources.

The WEA replaced the usual standard by which the State evaluates potential visual impacts to scenic resources. While projects located outside of the expedited area must demonstrate that they fit in harmoniously with their surroundings, projects inside the expedited area are evaluated under a different standard, and must demonstrate that the development will not significantly compromise views from certain types of scenic resources. Under the WEA, the scenic impact standard only applies to scenic resources of state or national significance (SRSNS).

The record for the Milton petition includes testimony and evidence from the Petition Circulator, state and local agencies, and interested persons on a list of recreational and scenic resources in and around Milton. Most of the identified resources do not meet the definition of scenic resources of state or national significance as defined in the WEA. For example, the trails maintained by the Rumford Water District on Mount Zirron, the trails maintained by the Woodstock Conservation Commission on Bucks Ledge and Lapham Ledge leading to Moody Mountain, the Androscoggin River Trail, local town beaches, and surrounding ponds such as North, South and Bryant Ponds are all resources that the Petition Circulator asserted are regionally important, but they are not SRSNS. Ed Rosenberg testified that, to those who live in the area, impacts to the scenic resources would have life changing significance. The Woodstock Conservation Commission provided several reasons why people use the trails, stating “most climb to appreciate beauty,” and quoted comments that people say when they get to the top of Moody Mountain such as “I climb as often as I can to see this fantastic view.” If Milton remains in the expedited area, the scenic resources identified in and around Milton would not be protected by the scenic impact standard in the WEA, and potential scenic impacts to those resources from wind energy development in Milton could not be considered in a permit review process.

Stantec, testifying on behalf of EverPower regarding scenic resources, concluded that there are no identified scenic resources within Milton or other unorganized territories in the area. Because they referenced only certain resources in their testimony, it appears that they limited their assessment to resources that would qualify as SRSNS. In this proceeding, the Commission is not limited to considering potential impacts to SRSNS. In fact, it makes sense given the different standards that apply inside and outside of the expedited area, for the Commission to consider high value resources that are not SRSNS.

**Staff Assessment:** Staff believes that Milton and the surrounding communities have scenic resources and that those resources, based on credible testimony in the record, are of local and regional significance. The outstanding question for the Commission is whether the scenic resources are of “high-value” and, therefore, warrant protection consistent with the scenic resources goal, as well as the recreational resources goal.

Important questions for the Commission’s consideration are as follows:

Do the scenic resources in and around Milton have sufficient value to be considered high-value resources as used in the context of the scenic resources goal?

If there are high-value scenic resources, do those resources warrant protection that is not currently provided by the scenic impact standard of the Wind Energy Act?

Do potential impacts from wind energy development in Milton rise to the level such that removal from the expedited area is warranted and consistent with the goal to protect the high-value scenic resources of the jurisdiction?

#### **g. Water Resources**

*“Preserve, protect and enhance the quality and quantity of surface waters and groundwater.”  
(Goal II.K.)*

No lakes or ponds are located in Milton. Stantec testified that two rivers and multiple streams are located in Milton outside of areas that would likely be proposed for wind development. They further stated that any proposed project will be designed to minimize adverse impacts on water resources, including extensive protection measures to protect water quality.

**Staff Assessment:** Staff suggests that the development permit application (if filed in the future) is the appropriate venue to evaluate specific risks of wind energy development to water resources, as that type of review relies on specific site plan details and the risks are fully addressed under the Commission’s rules for evaluating development permits. Removal of Milton from the expedited area, such that wind energy development will no longer be an allowed use, will protect surface and groundwater from any potential adverse impacts during construction and operation of a wind energy project, supporting a finding that removal is consistent with the water resources goal. However, it makes sense to give limited weight to this goal in the Commission’s balancing of all principal values and goals because the protection of the water resources in Milton can be adequately addressed during a permit review process. Removal of Milton from the expedited area is not necessary to ensure protection of surface and groundwater resources in Milton.

#### **h. Wetland Resources**

*“Conserve and protect the ecological functions and social and economic values of wetland resources.” (Goal II.L.)*

Stantec’s testimony concluded that, similar to most other areas in Maine, mapped wetlands and streams are located throughout Milton. Detailed wetland delineation surveys will be conducted as part of any permit application and any proposed project will need to minimize adverse impacts on wetland resources.

**Staff Assessment:** Staff suggests that the development permit application (if filed in the future) is the appropriate venue to evaluate specific risks of wind energy development on wetland resources,

as that type of review relies on specific site plan details and the risks are fully addressed under the Commission's rules for evaluating development permits. Removal of Milton from the expedited area, such that wind energy development will no longer be an allowed use, will protect wetlands from any potential adverse impacts during construction of a wind energy project, supporting a finding that removal is consistent with the wetland resources goal. However, it makes sense to give limited weight to this goal in the Commission's balancing of all principal values and goals because the protection of the wetland resources in Milton can be adequately addressed by applying wetland protection standards during a permit review process. Removal of Milton from the expedited area is not necessary to ensure protection of wetland resources in Milton.

## GUIDE FOR DELIBERATION

In the discussion above, staff has offered its assessment of the evidence as it relates to the key factors that must be considered when evaluating whether the two statutory removal criteria have been satisfied. The application of each criterion involves a balancing of the key factors.

Since public resource values promoted by the Commission's principal values and goals need to be individually considered under Criterion B, and public resource values also are relevant to the application of Criterion A, the following discussion begins with Criterion B.

### **Step 1: Application of Criterion B**

***For Milton to be removed from the expedited permitting area, the Commission must find “[t]he proposed removal is consistent with the principal values and goals in the [CLUP].”***

The above discussion of Criterion B includes the principal values and the goals in the CLUP staff identified as relevant, accompanied by an assessment of each. The staff assessment includes how staff believes different factors should be weighted in the required balancing, except for the scenic resource and recreational resource factors. Overall, staff believes that when the principal values and goals are balanced the weight ultimately given to the potential impact of wind energy development in Milton on scenic resources and recreation resources determines whether the proposed removal is consistent with the principal values and goals in the CLUP. The factors and relative weighting presented by staff are summarized in the tables in Appendix A.

With this as a basis for discussion, the following questions are offered to provide a framework for the Commission's consideration of Criterion B.

1. Does the Commission agree with staff's assessment of the principal values and goals noted above and summarized in the table in Appendix A?
  - a. If NO, which values and goals should be weighted differently? What weight should they receive?
  - b. If YES, proceed to question 2.
2. When record information is considered, how would the Commission answer the questions posed by staff in the analysis of the recreational resources and scenic resources goals (Criterion B, Sections II,B,2,e and f)?
  - a. Is the level of impact to natural resources and recreation in the Milton area sufficient to conclude that removal would be consistent with the goal to conserve the natural resources fundamental to maintaining diverse, abundant recreational opportunities?
  - b. Are there high-value scenic resources in Milton? Do potential impacts from wind energy development in Milton rise to the level such that removal from the expedited area is warranted and consistent with the goal to protect the high-value scenic resources of the jurisdiction.

3. When taken together with all other values and goals, would removal of Milton be consistent with the principal values and the goals of the CLUP, leading to a decision that removal Criterion B has been met?
  - a. If YES, proceed to Step 2, Application of Criterion A;
  - b. If NO, removal of Milton from the expedited permitting area would not be consistent with the principal values and the goals of the CLUP, Criterion B has not been met, and the Commission should stop the removal rulemaking. There is no need to proceed to Step 2 and consider Criterion A.

## **Step 2: Application of Criterion A**

***For Milton to be removed from the expedited permitting area, the Commission must find “[t]he proposed removal will not have an unreasonable adverse effect on the State’s ability to meet the state goals for wind energy development” for 2030.***

Review of Criterion A also involves assessment and balancing. Staff’s assessment is that the State still needs considerable installed capacity to meet the 2030 goal and that Milton has a reasonably good potential for wind energy development. Whether removal of the township will have an unreasonable adverse effect on the State’s ability to achieve its 2030 goal hinges on whether Milton is well suited for wind power development when balancing its wind power potential and the need for additional megawatts of installed capacity, with the potential impacts to public resource values.

In its consideration of public resource values as part of its review of the principal values and the goals of the CLUP (see Criterion B discussion), staff’s assessment is that potential impacts to high-value natural resources and natural character are such that removal of Milton would be consistent with the associated principal values, and potential impacts on community character, habitat resources, water resources and wetland resources are such that removal would be consistent with the related CLUP goals. Staff suggests that less weight be given to habitat resources, water resources and wetland resources in the balancing that needs to be done to reach a decision on the removal petition. Staff’s assessment also found that potential benefits to economic values are such that removal of Milton would be inconsistent with the associated principal value, and potential benefits to economic development, air and climate resources, energy resources, and forest resources are such that removal would be inconsistent with the related CLUP goals. Staff did not offer an assessment on how to weight potential impacts to scenic resources and recreation resources.

The following questions are offered to provide a framework for the Commission’s consideration of Criterion A:

1. Does the Commission agree with the staff’s assessment of the Criterion A factors as noted above and summarized in the table in Appendix A?
  - a. If NO, which factors should be weighted differently? What weight should they receive?
  - b. If YES, proceed to question 2.

2. Considering evidence in the record, including evidence related to recreational and scenic resources, are the collective impacts to public resource values disproportionately harmful when compared to Milton's wind energy potential and the State's need for additional installed capacity in order to meet its 2030 goal?
  - a. If YES, the proposed removal of Milton from the expedited permitting area will not have an unreasonable adverse effect on the State's ability to meet its 2030 wind energy goal, Criterion A has been met, the petition should be granted, and Milton should be removed from the expedited area;
  - b. If NO, the proposed removal of Milton from the expedited permitting area will have an unreasonable adverse effect on the State's ability to meet its 2030 wind energy goal, Criterion A has not been met, the petition should not be granted, and Milton should remain in the expedited area.

Both Criterion A and Criterion B must be met for the petition to be granted, and for Milton to be removed from the expedited permitting area.

## **Appendix A**

Substantive Review  
Petition to Remove Milton Township from the Expedited Permitting Area

### **Factor Summary Tables**

Maine Land Use Planning Commission  
**Substantive Review of the Milton Removal Petition**  
**Factor Summary Tables**

Background

The following summary tables are intended to be a visual guide to organize key factors and assist the Commission in reviewing the staff analysis for the Milton removal petition. The tables are not intended to be used as a mathematical comparison of the total number of factors in each column. The Commission's decision on the petition will involve a weighing of all of these factors taken together in balance with one another. Different factors may be given different weight.

In general, all of the factors that staff believe are relevant to the Milton removal petition are shown in the tables. Certain factors in the tables are shown in grayed text. Staff suggests that those factors have less weight when considering the record evidence, all of the relevant goals in the CLUP, and the decision making criteria of the WEA. For reference, the first column of the tables provides the section and page numbers of the deliberation memo that contain a more detailed analysis of the factors under each criterion. A condensed version of the key questions from the Guide for Deliberation is provided after each table for the Commission's consideration in reaching a decision on each of the decision making criterion for the removal petition.

Maine Land Use Planning Commission

**Substantive Review of the Milton Removal Petition, Factor Summary Table**

**Criterion B**

*To remove Milton from the expedited permitting area, the Commission must find: “The proposed removal is consistent with the principal values and the goals in the [CLUP] . . . .”*

<b>Memo Reference</b>	<b>Supports Removal from the expedited area</b>	<b>Requires Further Discussion</b>	<b>Supports Retention in the expedited area</b>
Sec. II, A, 1; pg. 10			Economic Value
Sec. II, A, 2; pg. 10		Recreational Opportunities	
Sec. II, A, 3; pg. 11	High-value Natural Resources		
Sec. II, A, 4; pg. 11	Natural Character		
Sec. II, B, 1,a; pg. 12			Location of Development
Sec. II, B, 1,b; pg. 13			Economic Development
Sec. II, B, 1,c; pg. 14	Site Review (Community Character)		
Sec. II, B, 2,a; pg. 15			Air and Climate Resources
Sec. II, B, 2,b; pg. 15			Energy Resources
Sec. II, B, 2,c; pg. 16			Forest Resources
Sec. II, B, 2,d; pg. 16	Habitat Resources		
Sec. II, B, 2,e; pg. 17		Recreational Resources	
Sec. II, B, 2,f; pg. 20		Scenic Resources	
Sec. II, B, 2,g; pg. 21	Water Resources		
Sec. II, B, 2,h; pg. 21	Wetland Resources		

**Key Questions:**

- Are the potential impacts from wind energy development in Milton sufficient to conclude that removal of Milton from the expedited area is consistent with the goal to protect the high-value scenic resources of the jurisdiction?
- Are the potential impacts to natural resources and recreation in the Milton area significant enough to decide that removal would be consistent with the goal to conserve those resources fundamental to maintaining diverse, abundant recreational opportunities?
- When taken together with all other values and goals, would removal of Milton be consistent with the principal values and the goals of the CLUP, leading to a decision that Criterion B has been met?
  - If YES, proceed to Criterion A.
  - If NO, Criterion B has not been met, the petition should not be granted, and Milton should remain in the expedited area.

**Substantive Review of the Milton Removal Petition, Factor Summary Table**

**Criterion A**

*To remove Milton from the expedited permitting area the Commission must find: “The proposed removal will not have an unreasonable adverse effect on the State’s ability to meet the state goals for wind energy development in section 3404, subsection 2, paragraph C.”*

<b>Memo Reference</b>	<b>Supports Removal from the expedited area</b>	<b>Requires Further Discussion</b>	<b>Supports Retention in the expedited area</b>
Sec. II, A; pg. 5			Progress toward Goal
Sec. II, B; pg. 5			Wind Energy Potential
Sec. II, C; pg. 7		Public Resource Values	

**Key Questions:**

- Are the impacts to scenic and recreational resources, natural resources, and/or community character disproportionately harmful when compared to the opportunity to make progress toward the state goal for wind energy development in this otherwise suitable area?
  - If YES, Criterion A has been met, the petition should be granted, and Milton should be removed from the expedited area;
  - If NO, Criterion A has not been met, the petition should not be granted, and Milton should remain in the expedited area.

**Substantive Review of the Milton Removal Petition, Factor Summary Table**

**Appendix B**

**CLUP Provisions Not Relevant to Consideration of Removal Criteria**

**I. Development Goals**

**D. Infrastructure**

Goal: *Ensure that infrastructure improvements are well planned and do not have an adverse impact on the jurisdiction's principal values.*

**E. Development Rate, Density and Type**

Goal: *Ensure that development is of a rate, density and type conducive to maintaining the jurisdiction's principal values.*

**F. Affordable Housing**

Goal: *Facilitate the provision of affordable housing in appropriate locations to households with a full range of incomes.*

**G. Land Conservation**

Goal: *Encourage the long-term conservation of select areas of the jurisdiction that are particularly representative of its cultural and natural values, including working forests, high-value natural resources and recreational resources.*

**II. Natural and Cultural Resource Goals**

**A. Agricultural Resources**

Goal: *Conserve and protect working farms, encourage the development of new farming enterprises, and conserve agricultural soil resources.*

**C. Coastal Resources**

Goal: *Protect and conserve the special natural and cultural resources of coastal islands and mainland townships, and help sustain the traditional resource-based economies of these areas.*

**D. Cultural, Archaeological and Historical Resources**

Goal: *Protect and enhance archaeological and historical resources of cultural significance.*

**G. Geologic Resources**

Goal: *Conserve soil and geological resources by controlling erosion and by protecting areas of significance.*

**Substantive Review of the Milton Removal Petition, Factor Summary Table**

***III. Compliance Goals***

Goal: *Administer an effective education and enforcement program in regard to the laws, regulations and standards of the Commission in order to ensure landowner and public awareness and compliance.*

***IV. Cooperative Initiatives***

Goal: *Encourage landowner initiatives and cooperative efforts which further the Commission's objectives of protecting natural resources and guiding growth through nonregulatory or voluntary actions.*