



STATE OF MAINE
DEPARTMENT OF CONSERVATION
MAINE LAND USE REGULATION COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

PAUL RICHARD LEPAGE
GOVERNOR

WILLIAM H. BEARDSLEY
COMMISSIONER

Twelfth Procedural Order

**In the Matter of
Development Permit DP 4889
Champlain Wind, LLC.
Bowers Wind Project
September 16, 2011**

To: Parties
Neil Kiely (Applicant)
Juliet Brown, Esq. (Counsel for Applicant)
Sean Mahoney, Conservation Law Foundation
Kevin Gurall, PPDLW
David Corrigan
Gordon Mott

cc: LURC Commissioners
Amy Mills, Maine Assistant AG
Catherine Carroll, LURC Director
Samantha Horn Olsen, LURC
Frederick Todd, LURC

From: Gwen Hilton, Presiding Officer

Subject: Commission staff request to reopen record

I. Background

Pursuant to the Third and Eighth Procedural Orders, the Public Hearing for Development Permit DP 4889 was held on June 27 and 28, 2011 at the Ella P. Burr Elementary School in Lincoln, Maine, and on July 6, 2011, at the Spectacular Events Center in Bangor, Maine.

The Eighth Procedural Order established Monday, July 18, 2011, as the close of the public comment period and Monday, July 25, 2011, as the deadline for accepting rebuttal comments. The Third Procedural Order established that after the close of the record “no additional evidence or argument will be allowed into the record except by leave of the Presiding Officer.”

At the June 27, 2011, evening public comment session, Cathy Johnson of the NRCM noted in her testimony that the record at that time did not reflect Pug Lake (an extension of West Grand Lake) as a Scenic Resources of State or National Significance (SRSNS). Staff determined after checking the Commission’s lakes data base that Pug Lake was a part of West Grand Lake which received an

CATHERINE M. CARROLL, DIRECTOR

www.maine.gov/doc/lurc
PHONE: (207) 287-2631
FAX: (207) 287-7439
TTY: (888) 577-6690

Outstanding scenic rating in the Commission's Wildlands Lake Assessment. Pug Lake, therefore, should have been considered in the scenic resource analysis as it is a SRSNS within 8 miles of the project area.

The applicant's scenic consultant, LandWorks, subsequently filed a memo dated July 5, 2011, with its textual visual impact assessment of Pug Lake noting that: "The visual impact of the Project from Pug Lake is insignificant. Based on viewshed mapping, the nearest visible turbine is T-15 located approximately 7.2 miles away (vantage point #2 in the attached exhibit). However, this visibility is based on an assumed 45-foot tree height, which is relatively conservative for this area. Using an assumed 45-foot tree height, there could be 6 turbine hubs visible from the northernmost viewshed boundary (vantage point #1 in the attached exhibit), although all the turbines are located more than seven miles distant. However, when we assume a 65-foot tree height, no turbines would be visible."

The Commission's scenic consultant, Dr. Jim Palmer, noted textually in his responsive memo of July 21, 2011 that: "LandWorks explains why there will be little visibility of the project from Pug Lake, a bay that is part of West Grand Lake, which is identified as having outstanding Scenic value in the Maine Wildlands Lake Assessment (Giffen et al. 1987). I have attached a visualization from the area of Pug Lake that I anticipate will have the highest potential visibility and it supports LandWorks' analysis. Due to screening by shoreline vegetation and distance, there should be very little visibility from this scenic resource of state or national significance (SRSNS). The scenic impact will be very low."

In each of their previous submittals to the Commission, however, LandWorks and Palmer had provided summary tables of their visual impact assessments for all of the SRSNS. Neither LandWorks nor Dr. Palmer included a tabular summary in the additional information they provided on Pug Lake. In preparation for the upcoming Commission deliberation for the Bowers project, staff requested that, for purposes of clarity and consistency, each consultant update their summary tables to incorporate their findings for Pug Lake so the Commission would have the benefit of the complete summary listing of visual impacts to all of the SRSNS for this project from each consultant. .

II. Order.

The additional summary tables regarding Pug Lake prepared by LandWorks and Dr. Palmer will assist the Commission in determining whether the applicant has met its burden of demonstrating that its proposed project will satisfy the applicable scenic standard.

The record is reopened to accept the attached updated summary tables from LandWorks and Dr. Palmer. It will remain open until 5:00 p.m. Monday, September 26, 2011 to accept any comment on the attached summary tables, at which time the record will close and no additional comment or argument will be allowed into the record except by leave of the Presiding Officer.

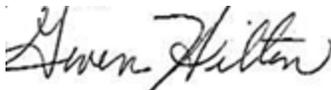
III. Authority and Reservations

This procedural order is issued by the Presiding Officer pursuant to LURC Chapter 5, *Rules for the Conduct of Public Hearings*. All objections to matters contained herein should be timely filed in

writing with the Commission but are not to be further argued except by leave of the Presiding Officer. All rulings and objections will be noted in the record. The Presiding Officer may amend this order at any time.

Questions regarding this Order or rulings of the Presiding Officer should be directed to Catherine Carroll, the Commission's Director, or Fred Todd, at the Commission's office in Augusta. No ex parte communication may occur with the Presiding Officer or any other Commission member.

DATED AT AUGUSTA, MAINE THIS 16th DAY OF SEPTEMBER, 2011

A handwritten signature in cursive script, appearing to read "Gwen Hilton".

By: _____
Gwen Hilton, Presiding Officer

Attachments: Updated SRSNS Tables from LandWorks and Dr. Palmer