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DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION

AUGUSTA, MAINE 04333-0022

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For: Number Nine Wind Farm (Site Law Certification SLC-7)
Number Nine Wind Farm, LLC

T10 R3 WELS, E Township, T9 R3 WELS, TC R2 WELS, TD R2 WELS, T8 R3 WELS, Saint Croix Twp., Hammond, TA R2 WELS and Forkstown Twp.
(Also located in the organized towns of Bridgewater, Littleton, Houlton, Linneus and Haynesville), Aroostook County

Certification of Allowed Use

August 6, 2015

Dear Jessica:

On July 21, 2015, Number Nine Wind Farm, LLC (“the Applicant”), a wholly-owned subsidiary of EDP Renewables North America, LLC, represented by their agent Stantec Consulting Services, Inc., submitted to the Department of Environmental Protection (DEP) a combined Site Location of Development Law (Site Law)/Natural Resources Protection Act (NRPA) application for the proposed Number Nine Wind Farm (“the Project”). The Project will be located in the following unorganized townships in Aroostook County: T10 R3 WELS, E Township, T9 R3 WELS, TC R2 WELS, TD R2 WELS, T8 R3 WELS, Saint Croix Twp., Hammond, TA R2 WELS and Forkstown Twp., all of which are in the portion of the State subject to the Land Use Planning Commission’s (the LUPC) jurisdiction. The Project will also be located in the organized towns of Bridgewater, Littleton, Houlton, Linneus and Haynesville. The proposed Project is a grid-scale wind energy development to be located entirely within the expedited permitting area for wind energy development. The LUPC accepted the Request for Certification as complete for processing on August 6, 2015.

Also on July 21st, the Applicant provided copies of portions (Section 1 and Section 31, Exhibits 1B to 1D and Exhibits 2B to 2D) of the combined DEP Site Law/NRPA application to the LUPC. On August 5, 2015, 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. *See* 12 M.R.S. § 685-B(1-A)(B-1) and (2-C). The Applicant included its public notice of intent to file and maps indicating the location of the proposed development with its DEP application; the maps were also included in the portions of the application provided to the LUPC. The public notice of intent to file was received by the LUPC on July 16, 2015.

Proposal and subdistricts affected

1. *Project description.* The Applicant proposes to construct the approximately 250 megawatt (MW) Number Nine Wind Farm, consisting of 119 turbines (each approx. 2.0 or 2.1 MW) at 129 possible locations. The Project will also include:
 - 50 miles of new access roads, 15 miles of upgraded existing roads, and 74 miles of existing roads;
 - 64 miles of above-ground 34.5 kV electrical collector lines and 64 miles of underground 34.5 kV electrical collector lines;
 - Up to four (4) temporary lay-down areas with temporary office trailers;
 - Up to three (3) concrete batch plants, each on a 7 acre site to be converted to permanent storage sites after construction;
 - An Operations & Maintenance (O&M) building on a 5.41 acre site;
 - A collector substation within a 4.33 acre enclosed switchyard, adjacent to the O&M Building;
 - Up to 4 temporary met towers and up to 4 permanent met towers;
 - The 26.2 mile long North 345 kV Generator Lead Line; and
 - The 25.4 mile long Bridal Path (south portion) 345 kV Generator Lead Line.

These features are collectively referred to as “the Project”. The Generator Lead Line will connect the Project to the ISO-regulated New England electric power grid at a proposed Interconnection Switchyard in Haynesville that is being reviewed separately by the DEP.

2. *Project location.*
 - A. *Turbines, roads, collector lines, met towers and temporary features.* The Project turbines, access roads, 34.5 kV electrical collector lines, and meteorological (met) towers will be located in T10 R3 WELS, E Township, T9 R3 WELS, TD R2 WELS, T8 R3 WELS and Saint Croix Twp. The primary entrance to the Project will be in TD R2 WELS via Number Nine Lake Road, which connects to Bootfoot Road and U.S. Route 1 in the organized town of Bridgewater. Temporary features needed during construction will be located near the turbine areas, and will include up to three temporary concrete batch plants; up to four temporary laydown areas; and temporary office trailers within the laydown areas, the O&M building site or the substation site.
 - B. *Operations & Maintenance (O&M) building and substation.* The Project O&M Building and substation will be located in T9 R3 WELS.
 - C. *345 kV Generator Lead Lines.* The Project's 345 kV generator lead line will be comprised of two sections:

- (1) The northern line will extend from the proposed substation in T9 R3 WELS to a point on the north side of Ludlow Road in Houlton. The line will pass through the unorganized townships of T8 R3 WELS, TC R2 WELS and Hammond, as well as the organized town of Littleton.
 - (2) The southern portion of the line, referred to as the “Bridal Path” will follow an existing transmission line corridor, extending from a point on the south side of Ludlow Road in Houlton to an Interconnection Switchyard north of Route 2 in Haynesville. This line will also pass through the unorganized townships of TA R2 WELS and Forkstown Twp., as well as the organized towns of Linneus and Haynesville.
3. *Subdistricts affected.* The LUPC zones to be affected by the Project are the General Management Subdistrict (M-GN), Shoreland Protection Subdistrict (P-SL), Wetland Protection Subdistrict (P-WL), and Flood Prone Area Protection Subdistrict (P-FP).
- A. *Shoreland Protection Subdistricts (P-SL).* The Project’s access roads, collector lines, and generator lead line will cross numerous small streams, both mapped with P-SL2 Shoreland Protection Subdistricts and shown on the LUPC zoning maps, and unmapped by LUPC but shown on the Project plans. The Project’s Bridal Path Generator Lead Line in Forkstown Twp. will cross over a mapped P-FP Subdistrict/P-SL1 Subdistrict associated with the East Branch of the Mattawamkeag River.
 - B. *Wetland Protection Subdistrict (P-WL).* Within the Project area, P-WL1, P-WL2 and P-WL3 Subdistricts both shown on the LUPC zoning maps and not shown, but delineated on the ground and depicted on the Project plans, will be affected by the Project. Stream channels, which are P-WL1 Subdistricts by definition, both shown and not shown on the LUPC zoning map, will be crossed by the roads, collector lines and the generator lead lines.
 - C. *Flood Prone Area Protection Subdistricts (P-FP).* The features of the Project to be located within LUPC mapped P-FP Subdistricts will be fill for utility line poles and for upgrades to existing roads.
 - (1) In T10 R3 WELS, an existing road will be upgraded where it crosses through a mapped P-FP Subdistrict associated with Burnt Land Brook.
 - (2) In TD R2 WELS, an overhead 34.5 kV electrical collector line to be located along an existing road being upgraded will cross a mapped P-FP Subdistrict associated with Number Nine Stream. Two utility poles will be placed within the P-FP Subdistrict.
 - (3) In T9 R3 WELS, an overhead collector line located along an existing road that will be upgraded will cross a mapped P-FP Subdistrict associated with Hovey Brook. Four utility poles will be located within the P-FP Subdistrict.
 - (4) In T8 R3 WELS, an overhead collector line will cross a mapped P-FP Subdistrict associated with the East Branch of Howe Brook, and four utility poles will be located with the P-FP Subdistrict.
 - (5) In T8 R3 WELS, the Project’s North Generator Lead Line, and an access road to the line, will cross a P-FP Subdistrict associated with the Meduxnekeag River.
 - (6) The Project’s Bridal Path Generator Lead Line in Forkstown Twp. will cross the East Branch of the Mattawamkeag River, which includes a mapped P-FP Subdistrict, but no poles will be located in the P-FP Subdistrict.

All mapped P-FP Subdistricts and 100-year floodplains (if any) affected by the Project are subject to the LUPC's rules and standards for P-FP Subdistricts.

3. *Public Notice of Intent to File.* On July 15, 2015, the Applicant had the third Notice of Intent to File published in the Bangor Daily News, and sent the notice to abutters on July 14, 2015. Previously, the Applicant had a first Notice of Intent to File published in local newspapers on October 31 and November 5, 2014, and then had a second notice published on February 18, 2015. The first and second notices were sent to abutters to the Project on October 31, 2014 and February 18, 2015, respectively. The Applicant also held two public information meetings, as required by the DEP's Site Law rules, on November 12, 2014 and March 4, 2015.

Review criteria

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

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

3. *35-A M.R.S., Ch. 34-A, § 3451, sub-§§ 3, 6, and 11.* “As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.
 - A. “*3. Expedited permitting area.* ‘Expedited permitting area’ means:
 - A. The organized areas of the State in their entirety, but not including waters subject to tidal influence, so that the edge of the area that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the United States Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service defines the boundary of the expedited permitting area on lands abutting waters subject to tidal influence; and
 - B. Specific places within the State's unorganized and deorganized areas, as defined by Title 12, section 682, subsection 1, that are identified by rule by the Maine Land Use Planning Commission in accordance with this chapter.”
 - B. “*6. Grid-scale wind energy development.* ‘Grid-scale wind energy development’ means a wind energy development that is of a size that would qualify as a development of state or regional significance that may substantially affect the environment as defined under Title 38, section 482, subsection 2, paragraph A or paragraph C.”
 - C. “*11. Wind energy development.* ‘Wind energy development’ means a development that uses a windmill or wind turbine to convert wind energy to electrical energy for sale or use by a person other than the generator. A wind energy development includes generating facilities and associated facilities.”
4. *Wind Energy Act, expedited permitting area for wind energy development.* On April 18, 2008, the Wind Energy Act (2007 Public Law, Chapter 661) was signed into law, establishing the expedited permitting area for wind energy development in the state of Maine. The Act required that the Commission adopt the designated expedited permitting area into its rules (reference 35-A M.R.S., Chapter 34-A, Section C-6) and add wind energy development (as defined in 35-A M.R.S., Chapter 34-A, Section 3451(11)) as an allowed use by permit in all subdistricts within the expedited area (reference 12 M.R.S., Section 685-B(2-C)).
 - A. “*Sec. C-6. Expedited permitting area designation; permitted use.* No later than September 1, 2008, the Maine Land Use Regulation Commission shall adopt a rule listing the following specific places within the State's unorganized and deorganized areas, which comprise the expedited permitting area for purposes of this Act, except that the commission may subsequently add additional areas to this list by rule in the manner provided by this Act:”
 - B. Subsequently, the Commission adopted the expedited permitting area for wind energy development as Appendix F to Chapter 10 of its rules.
 - C. On March 3, 2010, the Commission voted to adopt a rule change to make rule certain corrections to the written description of the expedited permitting area that were identified in LD 1475 (PL 2009, Ch. 415). The effective date of this rule change was April 7, 2010.

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

Based on the materials submitted by Number Nine Wind Farm, LLC, the LUPC, through its staff, determines that:

1. All parts of the Project, as proposed, are a wind energy development.
2. The portions of T10 R3 WELS, E Township, T9 R3 WELS, TC R2 WELS, TD R2 WELS, T8 R3 WELS, Saint Croix Twp., Hammond, TA R2 WELS and Forkstown Twp., in which the Project is proposed to be located are within the expedited permitting area for wind energy development.
3. In the subdistricts in which the Project is proposed to be located, the (M-GN) General Management Subdistrict (M-GN), Flood Prone Area Subdistrict (P-FP), Shoreland Protection Subdistrict (P-SL), and Wetland Protection Subdistrict (P-WL), wind energy development in the expedited permitting area is an allowed use (*See* Chapter 10 of the LUPC's Land Use Districts and Standards, Sections 10.22,A,3,c(25) [M-GN]; 10.23,C,3,c(22) [P-FP] 10.23,L,3,c(25) [P-SL]; and 10.23,N,3,c(17) [P-WL].

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 Number Nine Wind Farm, LLC. 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 Billie MacLean at the Ashland office by email [Billie.J.MacLean@maine.gov] or at (207) 435-7963 ex. 208.

Sincerely,



Samantha Horn Olsen, Planning Manager
Maine Land Use Planning Commission

cc: Joy Prescott, Stantec
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