

January 13, 2021

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Jessica,

I have reviewed the January 6, 2021 update of the Silver Maple Wind VIA discussing the visual impacts to Burnt Pond, Floods Pond, and Hatcase Pond (“200106 Silver Maple Wind Farm Visual Impact Assessment Addendum(1).pdf”). This addendum also includes a number of viewshed maps which appear to agree with the amount of visibility I predicted in my January 21, 2020 review.

Below are my observations.

1. All three are Great Ponds and will have significant visibility of the proposed Silver Maple wind project, as shown on the viewshed maps.
2. The VIA acknowledges that these three lakes are identified outstanding scenic resources in Maine’s Finest Lakes.
3. The issue revolves whether the “public has a legal right of access,” as required by the Wind Energy Act. All three ponds are gated, limiting public access by vehicle.
 - a. Burnt Pond and Floods Pond are part of Bangor’s water supply. They are surrounded by land owned by the Bangor Water District, which gives them the right to restrict public access to the Great Pond (Title 17, ch. 127, sec. 3860). It is there policy not to allow recreation use of these lakes or the immediate area.
 - b. Hatcase Pond is part of Brewer’s water supply. It is surrounded by land owned by the Brewer Water Department and private land under conservation easement to protect the water supply. There are apparently residents immediately to the southeast of the lake, in the area with visibility. The Superintendent indicated that hiking and open water fishing is limited to the southern shore, which is privately owned and away from the water intake (see email from Rodney Butler, Brewer Water Department Superintendent). The hike into Hatcase Pond from Jarvis Gore Drive (Rt. 46) is approximately 2.5 miles.
4. As of July 12, 2020, DEP received a number of public comments concerning the Silver Maple Wind’s potential impact to these lakes: 9 concerning Burnt Pond, 19 concerning

Floods Pond, and 23 concerning Hatcase Pond. We know that these lakes are being visited by the public.

What evidence we have indicates that Hatcase Pond is a scenic resource of state or national significance (SRSNS). The Brewer Water Department does not own all of the land surrounding the lake and the public has the right of access across private land. It appears that all concerned have worked out a policy to allow responsible recreation use.

Burnt Pond and Floods Pond are a different matter. The law appears to give the Bangor Water Department the right to refuse access to these lakes. The road is gated and signed. However, people still access the property and lakes for recreation purposes.

Based on the viewshed maps, there will be substantial visual impacts to all three lakes. This will be in addition to the very high visual impact to Chemo Pond and the medium-high visual impact to Hopkins Pond.

One further observation:

5. The January 6, 2021 VIA Addendum's description of proposed mitigation states:

SWEB has committed to installing a radar-based obstruction lighting control system that complies with all Federal Aviation Administration (FAA) requirements as part of the development of the Silver Maple Wind Farm.

It is my understanding that DEP now requires this as a permit condition where it is possible. What is missing is the agreement to also install radar-based obstruction lighting control system on the existing Pisgah Mountain wind turbines. The mitigation of Pisgah Mountain's existing lighting is a necessary mitigation to compensate for the impacts from the Silver Mountain wind project.

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Attachment: January 12, 2021 email from Rodney Butler, Brewer Water Department Superintendent.