



Natural Resources Council of Maine

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May 25, 2011

Chairwoman Gwen Hilton
Land Use Regulation Commission
22 State House Station
Augusta, ME 04333-0022

**Comments of Dylan Voorhees, Clean Energy Director, Natural Resources Council of Maine
Re: Bull Hill Wind Project, DP 4886**

Chairwoman Hilton and members of the Commission,

My name is Dylan Voorhees and I am the Energy Project Director at the Natural Resources Council of Maine. NRCM staff have been involved in reviewing and commenting on dozens of development proposals in LURC jurisdiction since LURC's creation. We have participated fully in two full revisions of LURC's Comprehensive Land Use Plan (1990-1997 and 2005 – 2010) and in many stakeholder committees. NRCM has also served on many Management Plan Advisory Committees established by the Bureau of Parks and Lands, including the Management Plan Advisory Committee for the Donnell Pond Unit both in 1991 and in 2007. Many of our staff are avid canoeists and hikers and have paddled most of the major rivers and many lakes in the jurisdiction, and have hiked many of the mountains. Many of our staff, and of course our members, have specific experience over the years as users of the Donnell Pond area. All of these experiences have given us a deep understanding of recreational and scenic issues facing the jurisdiction. We also have been involved in the shaping of Maine's wind power policies, through analysis of wind energy production and siting, participation on the Governor's Wind Power Task Force, throughout the legislative process, and through multiple presentations and submission of testimony to LURC.

Summary

NRCM is a strong supporter of both protecting the scenic and recreational resources of the state and developing renewable energy as one part of a strategy to limit pollution and climate change. We believe that the Maine Wind Energy Act (35-A MRSA § 3401) provides a balanced approach for achieving both of these goals.

Our comments below are primarily focused around the statutory criteria for granting of a development permit, specifically regarding scenic resources. However it is important to remember the purpose of wind power and renewable energy generation in Maine. Maine and the region continue to be over-dependent on fossil fuels for power, a situation which is unsustainable both economically as well as environmentally. Climate change is one of the most dramatic negative effects of continued fossil fuel use, and will cause sweeping harms to Maine's forests, coasts, fisheries, wildlife, public health and physical infrastructure. We must transition to a cleaner, more affordable future through several simultaneous policies, from energy efficiency to

additional use of renewable energy available here in Maine. We have examined the impact of wind power in displacing pollution and fossil fuel energy, primarily natural gas, at great length—the simple conclusion is that wind power plays an important role in displacing these fuels and reducing pollution levels. It is one of the most cost-effective renewable energy sources, though it sometimes must nonetheless struggle to compete with traditional sources of energy, such as oil and gas, that we have collectively subsidized and invested in for generations. The need to develop clean energy does not trump other needs—hence the need for balancing with conservation goals.

After reviewing the proposed Bull Hill wind project, we believe that it is a close call whether this project meets the criteria of the law and strikes the appropriate balance between protecting Maine's North Woods and developing wind power. We neither support the project nor oppose the granting of a permit, but would like to provide some information that may be useful to the Commission. There would be significant impacts on scenic resources of statewide or national significance and existing uses of those resources, including Donnell Pond, Narraguagus Lake, and the Donnell Pond Public Land Unit including Black, Caribou, and Tunk Mountains. If this project were to be approved, we believe that conditions would need to be included in the permit in order to mitigate these adverse impacts and/or the project should provide tangible benefits for land conservation, and recreational and scenic benefits. We do not have specific recommendations for mitigation or tangible benefits, however we recommend that they should be relevant to the impacts of this project—i.e. recreational and scenic benefits.

Statutory Criteria for Evaluating Scenic Impacts

12 M.R.S.A. §685-B (4)(C) sets forth the legal criteria for determining scenic impacts:

Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal...

In making a determination under this paragraph, regarding an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, the commission shall consider the development's effects on scenic character and existing uses related to scenic character in accordance with Title 35-A, section 3452.

35-A M.R.S.A. §3452 (1) further defines the standard for determining scenic impact as:

...whether the development significantly compromises views from a scenic resource of state or national significance such that the development has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of the scenic resource of state or national significance.

Significance of the Potentially Affected Scenic Areas

The areas of state significance that would be affected by this project include the following:¹

- 1. Donnell Pond Public Lands Unit** – The Donnell Pond Public Lands Unit includes 15,384 acres in T7 SD, T9 SD, T10 SD, and the towns of Franklin and Sullivan. The Bureau of Parks and Lands (BPL) also holds two easements on an additional 468 acres adjacent to the Unit, including 3.4 miles of frontage on Donnell Pond. The purpose of these easements is “to protect the scenic values as seen from within the Unit.”² The Department of Inland Fisheries and Wildlife (IF&W) holds easements on an additional 1,400 acres on the west side of Tunk Lake. Finally, IF&W holds an additional six easements on nearby parcels “to provide protection for viewsheds and lakeshore quality.”

Donnell Pond is 1120 acre lake, classified as a class 1A with outstanding scenic quality, shoreline character, and fisheries. It is a management class 4 lake as there is some development on the privately owned lands on the northwest side of the Pond.

BPL’s Management Plan notes that the Donnell Pond Unit “offers excellent opportunities for remote and semi-remote recreational experiences. The quality of the lakes and ponds, along with its miles of undeveloped shoreline, sand beaches, hiking trails, and campsites in scenic surroundings combine to make this a Unit of high recreational value for a variety of users. The recreation management goal for the Unit has been to maintain its remote to semi-remote natural character...”³ Significant blocks of land (estimated at 6000 acres) have been designated by BPL for “backcountry non-mechanized recreation,” BPL’s most protective recreation management category. In addition another estimated 4000 acres have been designated for “remote recreation,” a category which is slightly less protective than backcountry non-mechanized.⁴ BPL is in the process of expanding both the backcountry non-mechanized recreation areas on this Unit and the multi-day hiking and camping opportunities within those areas. These backcountry areas include Black, Caribou, Schoodic, and Tunk Mountains. The Management Plan further notes that “the scenic quality throughout the Unit is a valuable resource.”⁵

- 2. Narraguagus Lake** – This is a 426 acre lake, classified as 1B with significant scenic quality, shoreline character, fisheries, and cultural features. It is inaccessible and largely undeveloped.

NRCM is very disappointed that the Bureau of Parks and Lands has been instructed not to file any comments in this and other development projects before LURC. Staff at BPL are the state’s foremost experts on the public lands they oversee – what features they include, what type of experience they provide to users, and what the management goals are. We

¹ These resources all meet the criteria set forth in 35-A M.R.S.A. §3451(9).

² Bureau of Parks and Lands Management Plan for the Donnell Pond Unit, 2007(BPL Management Plan), p. 19.

³ BPL Management Plan, p. 27.

⁴ See BPL Management Plan map, p. 81.

⁵ BPL Management Plan, p. 31

believe that BPL staff could provide valuable information to the LURC Commission on this and other proposed development projects about the likely impacts of proposed development both on the public lands and on recreational uses those lands are intended to provide. BPL staff are also knowledgeable about recreational uses on other lands, both private and those managed by nonprofits, as a result of their work with a variety of partners on issues ranging from back country trails to snowmobile and ATV trails. We encourage the Commission to specifically request comments from BPL, or, in the alternative, invite BPL staff to a LURC meeting to discuss potential impacts from development projects (both this one and future ones of all types.)

Existing Character of Surrounding Area

Aside from Acadia National Park, the Donnell Pond Public Lands Unit is one of the only places in the Downeast region where people can hike to the top of mountains and get broad scenic vistas over the landscape. To the best of our knowledge, it is the only place in the region, other than the Cutler Public Lands Unit which is directly on the sea coast, where hikers can find a multi-day backpacking experience.

The views from the tops of the mountains in the Donnell Pond Unit (Black, Caribou, Schoodic, and Tunk) are stunning. In the foreground, one sees open rock summits and ledges, and the pristine and undeveloped mountains and lakes of the Donnell Pond Unit.

Further away, to the south, one sees the Maine coastline dotted with islands and the mountains of Mt. Desert Island and Acadia National Park. To the north, east and west, one sees a carpet of rolling forested hills, flats and blueberry barrens, punctuated only very infrequently by a communications tower or isolated building. Given its relatively close proximity to Ellsworth with its extensive big box development and Routes 1 and 182, this Unit has a remarkable feeling of remoteness.

Expectations of Typical Viewer

The Donnell Pond Unit is a well used Public Lands Unit. BPL notes that “the trailheads to these destinations [Schoodic, Black and Caribou Mountains] often overflow.”⁶ On the October weekend when the applicant did its visitor survey, there were at least 153 hikers. These hikers expect to see a generally undeveloped view from the summits of the mountains.

Users of Donnell Pond vary more than hikers in the type of experience they are seeking. Some users come for a semi-remote paddling and camping experience. Other users come in motor boats, laden with beer. Still others come for the day to engage in group beach activities including swimming and picnicking. Given all of these types of use, expectations for a semi-remote experience may be somewhat lower.

On the other hand, Narraguagus Lake is less accessible and sees much less use. Users of Narraguagus Lake would expect a remote experience.

⁶ BPL Management Plan, p. 29.

Nature and scope of impacts on users and scenic resources of state and national significance⁷

In evaluating the impact of the project, it is important to think about both the effects of the proposed turbines and the value of the scenic resource and public uses being affected. Because wind turbines are inherently visible features given their size relative to other features on the landscape, it is largely the value and extent of the affected resources and related uses and the landscape context that will distinguish the impacts of one set of wind turbines from another.

Evaluating the scenic impact of a project is not an easily quantifiable exercise. Professional assessments can provide an important perspective using generally accepted and relatively objective standards. However, evaluation of scenic quality and impacts inevitably involves a large degree of subjective judgment, and the perspective of laypersons should also be given strong consideration.

The most direct impact from the project will be on Narraguagus Lake. It is a remote feeling area, many turbines will be visible, and they are relatively close (starting at less than 3 miles.) However, the landscape in the direction of the turbines is low and rolling and the use of the lake appears to be primarily by fishermen for whom fishing is the draw, more than the scenic character of the region. Given these factors, we agree with James Palmer that the overall impact on Narraguagus Lake is medium.

The greatest adverse impact of the project on resources of state significance is on the mountains of the Donnell Pond Unit. Hikers on these mountains are clearly in search of scenic vistas and remote hiking and camping experiences, mountains such as these are scarce in this region of the state, and the turbines will be very visible. While the applicant did an analysis of the impacts from Black and Tunk Mountains, no analysis was done of the impacts from Caribou and Schoodic Mountains. Schoodic Mountain is an even more popular destination than Black Mountain (although we could not tell definitively whether it was technically within 8 miles of the project); and Caribou Mountain is part of an excellent hiking loop that includes Black Mountain and is closer to and will be more directly impacted by the turbines.

The views from the summits of these four mountains will be significantly adversely affected by the project. While James Palmer characterized the overall scenic impact on Black and Tunk Mountains as Medium-High, we would probably characterize it as High, when you add the impacts on Schoodic and Caribou Mountains to the impacts on Black and Tunk Mountains.

However, there are some mitigating circumstances. First, the most dramatic view from these mountains is towards the south, the Maine coastline and Acadia National Park – the opposite direction from the proposed project. This might help explain why the applicant's hiker

⁷ 35-A M.R.S.A. §3(E) and (F) evaluation criteria read as follows: "E. The extent, nature and duration of potentially affected public uses of the scenic resource of state or national significance and the potential effect of the generating facilities' presence on the public's continued use and enjoyment of the scenic resource of state or national significance; and F. The scope and scale of the potential effect of views of the generating facilities on the scenic resource of state or national significance, including but not limited to issues related to the number and extent of turbines visible from the scenic resource of state or national significance, the distance from scenic resource of state or national significance and the effect of prominent features of the development on the landscape."

survey predicted no significant decrease in return visitors based on the project's scenic impact. Secondly, the foreground landscape from the tops of the mountains in the Donnell Pond Unit is very striking – the summits and open ledges of the other peaks are close by and very attractive; they capture the viewer's attention. Unlike some mountain summits, where the entire view is a more distant view, the views from these mountains are a combination of these distant landscape views with the striking close views of the nearby mountains. Thus, while the view of the turbines will be prominent, it will not be as prominent as if there were only a single mountain.

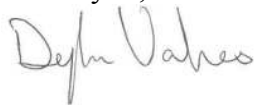
Finally, there will adverse scenic impacts on Donnell Pond, itself. For those paddlers, campers, and anglers in search of a semi-remote experience there will be a significant degradation of the scenic quality and experience. Some of these users would likely choose to find other lakes. For those users who are there for day use, boating, swimming, and picnicking, the focus of the use is more on the social activities and the actual beach, more than on the distant scenic views (the nearest turbines are 7.8 miles away). Overall, we agree with Jim Palmer's assessment that the impacts would be medium.

There is one other issue which we urge the Commission to consider. It is our understanding that there may be additional wind projects, or a project expansion, planned for this region. If this project is approved, it will act as a magnet for other projects, both because of the economic efficiencies of managing projects that are geographically close to each and because the scenic resources will have already been adversely impacted. This is a situation where LURC has the ability to think about the cumulative impacts of multiple projects before any of the projects have been built.

Conclusion

As a result of LURC's statutory mandate to protect the North Woods and the expedited wind power act, LURC has the authority and responsibility to balance the two statutory goals of North Woods protection and generation of wind energy. Some wind sites cause relatively few adverse impacts to North Woods values. Other sites cause such major impacts to the North Woods, that projects should not be approved. And some sites are close calls. Based on the information we have, we believe that this site is one of those close calls. We urge you to consider our comments and the issues raised along with all the other information you will receive during this process as you make your decision on this project.

Thank you,



Dylan Voorhees

ATTACHMENT: The section of the Bureau of Parks and Lands Downeast Region Management Plan addressing Donnell Pond, March, 2007.