



PAUL RICHARD LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF CONSERVATION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

WILLIAM H. BEARDSLEY
COMMISSIONER

First Procedural Order

**In the Matter of
Development Permit DP 4862
Highland Wind, LLC
Highland Wind Project
March 15, 2011**

To: Katherine Joyce, Esq. (Applicant)
Phil Worden, Esq. (Friends of the Highland Mountains (FHM))
Alan Michka (FHM)
Karen Pease (FHM)
William Plouffe, Esq. (Maine Appalachian Trail Club)
Jonathan Carter (Forest Ecology Network)
Robert Proudman (Appalachian Trail Conservancy (ATC))
Hawk Metheny (ATC)
David Publicover (Appalachian Mountain Club (AMC))
Ken Kimball (AMC)
Dylan Voorhees (NRCM)
Pam Underhill (National Park Service (NPS))
Brent Allen (NPS)
Greg Perkins
Rand Stowell (Friends of the Maine Mountains)
Harry Brown (Interfaith Power and Light)
Sam Saltonstall (Interfaith Power and Light)
Sean Mahoney, Esq. (Conservation Law Foundation)
Steve Clark (Arnold Expedition Historical Society)
David Corrigan

cc: Commissioners of the Land Use Regulation Commission (LURC)
Amy B. Mills, AAG
Catherine Carroll, LURC Director
Samantha Horn-Olsen, LURC Planning Division Manager
Marcia Spencer Famous, LURC Senior Planner
Jim Palmer, LURC Scenic Quality Consultant

From: Gwen Hilton, Land Use Regulation Commission Chair and Presiding Officer

Subject: Determination of scenic effect of associated facilities; 35-A M.R.S. § 3452(2)

I. Background.

On February 23, 2011 LURC staff determined the wind energy development application filed by Highland Wind, LLC (the Applicant) for the Highland Wind Project was complete for processing. By electronic service on March 11, 2011 Attorney Phil Worden, on behalf of the Friends of the Highland Mountains (FHM), filed a motion and memorandum, requesting that the Commission review the potential effect of the Highland Wind Project's associated facilities on scenic character and existing uses related to scenic character in the manner provided for development other than wind energy development. *See* 35-A M.R.S. § 3452(2). The Wind Energy Act provides that the Commission "shall make a determination [regarding the scenic standard applicable to associated facilities] within 30 days of its acceptance of the application as complete for processing." *Id.*

II. Order.

Any person or organization, other than the Applicant and FHM, who wishes to take a position on the issue of the applicable scenic standard, as that issue is set forth in 35-A M.R.S. § 3452(2), shall file relevant pleadings with staff, to the attention of Marcia Spencer Famous, no later than March 22, 2011.

The Applicant shall file its response on this issue no later than March 29, 2011.

Staff will review the pleadings and prepare a memorandum for the Commission's consideration at the April 6, 2011 meeting, at which time the Commission will make its determination pursuant to 35-A M.R.S. § 3452(2).

If the Applicant, FHM, or any other person or organization filing pleadings regarding the scenic standard issue identified in this Order wishes to present oral argument to the Commission at the April 6, 2011 meeting, written notice to staff must be provided no later than March 29, 2011. The Presiding Officer may allow and allocate time for oral argument at the meeting at her discretion.

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 these rulings of the Presiding Officer should be directed to Catherine Carroll, the Commission's Director, or Marcia Spencer-Famous 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 15th DAY OF March 2011

By: 

Gwen Hilton, Chair and Presiding Officer