

## MacNeil, Jami

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**From:** Hinkel, Bill  
**Sent:** Tuesday, February 02, 2021 10:22 AM  
**To:** William A Weary; Nicholas Barth; Burke, Ruth A; Bensinger, Peggy; Elwell, Caleb; MacNeil, Jami; Hallowell, Dawn; Carol Ervin; Bailey Bolen; Allen J. Philbrick; plyons@eatonpeabody.com; Kristin Collins (kcollins@preti.com); Jeffrey Spinney; Cathy Johnson (cjohnson@tidewater.net); Doreen Conboy; Mark P. Desmeules; A. McKinne Stires; Jon Luoma  
**Subject:** RE: Spinney appeal

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Mr. Weary:

Pursuant to Chapter 2, § 24(D), the record for appeals decided by the Board is the administrative record prepared by Department staff in its review of the application, unless the Board admits supplemental evidence or decides to hold a hearing on the appeal. The record prepared by Department staff in its review of Mr. Spinney's application includes documents up until March 13, 2020, when the Department issued the permit (Order #L-28397-4E-A-N) to Mr. Spinney. Also included in the record in this appeal is the following supplemental evidence that was subsequently admitted by the Board Chair.

- On June 5, 2020, the Chair admitted as supplemental evidence offered by the Licensee a document titled, "Golden Ridge Sportsman's Club By-Laws," dated May 12, 2020.
- On June 19, 2020, the Chair admitted as supplemental evidence offered by the Department staff a document titled, "Licensee's executed Land Use License Agreement," dated May 12, 2020.
- On January 25, 2021, the Chair admitted a Department staff memorandum dated January 15, 2021.

Electronic mail correspondence to and from the Department staff after March 13, 2020, are not part of the administrative record prepared by Department staff in its review of the application, were not admitted by the Chair, and therefore are not part of the record for the appeal to be decided by the Board in this matter.

The packet of materials provided to the Board members for the meeting does not include every piece of correspondence in the file but will include any documents in the record that are relevant to the issues raised in the appeal. An electronic copy of the Board packet materials will be provided to you in advance of the meeting.

Sincerely,

William F. Hinkel  
Executive Analyst, Board of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017  
(207) 314-1458  
[bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov)

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**From:** William A Weary <w.weary@gmail.com>  
**Sent:** Monday, February 1, 2021 11:51 AM

**To:** Hinkel, Bill <Bill.Hinkel@maine.gov>

**Cc:** Nicholas Barth <barthnicholas242@gmail.com>; Burke, Ruth A <Ruth.A.Burke@maine.gov>; Bensinger, Peggy <Peggy.Bensinger@maine.gov>; Elwell, Caleb <Caleb.Elwell@maine.gov>; MacNeil, Jami <Jami.MacNeil@maine.gov>; Hallowell, Dawn <Dawn.Hallowell@maine.gov>; Carol Ervin <cervin@ycrlaw.com>; Bailey Bolen <baileybolen@gmail.com>; Allen J. Philbrick <philbrick@cmplaw.com>; plyons@eatonpeabody.com; Kristin Collins (kcollins@preti.com) <kcollins@preti.com>; Jeffrey Spinney <jeff.spinney@gmail.com>; Cathy Johnson (cjohnson@tidewater.net) <cjohnson@tidewater.net>; Doreen Conboy <thebend@tidewater.net>; Mark P. Desmeules <salmon@tidewater.net>; A. McKinne Stires <stires@nnei.net>; Jon Luoma <jluoma@tidewater.net>

**Subject:** Re: Spinney appeal

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Thank you, Bill. That is very helpful guidance. I am assuming that the email correspondence prior to May 13, 2020 between the Department and the licensee indeed is part of the official record. I was told that it should be and does belong there, but that the Department might possibly not have brought it in. For that reason, in case the Department had not officially inserted those materials that belong there, the appellants included that correspondence in their request to submit supplemental evidence. Your counsel on how to proceed will be helpful to us. Best - Bill

On Mon, Feb 1, 2021 at 10:31 AM Hinkel, Bill <[Bill.Hinkel@maine.gov](mailto:Bill.Hinkel@maine.gov)> wrote:

Mr. Weary:

I've included an excerpt from Department rule Chapter 2 which describes the procedure for appeals.

I will introduce the matter and let the Board know who will be speaking on behalf of the appellants and the licensee. The person speaking on behalf of the appellants may then make an oral argument discussing the appellants' objections or challenges to the Commissioner's decision on the application. This must be based on evidence that is in the Board's record. The spokesperson for the licensee may then address the issues raised by the appellants. Finally, the Department staff will address the Board to discuss the proposed Board Order. The Board Chair, in his discretion, may allow the appellants a brief rebuttal. The Board, counsel to the Board and I may ask questions of each speaker.

Please keep in mind that no new evidence may be introduced during oral arguments. Board members will have reviewed prior to the meeting the appellants' arguments, the licensee's response, and the record evidence, as well as the proposed Board Order that has been prepared by the staff. Therefore, oral arguments should be concise and highlight the major arguments raised on appeal and the licensee's response to those arguments. The Chair has discretion to allow people other than the spokesperson for the appellants and the licensee to address the Board, if that is requested. An appeal of this nature would typically be scheduled for an hour on the Board's meeting agenda;

however, the time each person is allowed to speak is at the discretion of the Board Chair. Presentations that are repetitious, attempt to introduce new evidence, or not focused on the issues before the Board in the appeal may be truncated by the Chair.

This appeal is anticipated to be considered at the Board's February 18, 2021, meeting. An electronic copy of the Board packet materials, an agenda with the meeting start time (typically 9:00 a.m.), and a link to the Zoom meeting, once available, will be provided to you. I will request the name of your designated spokesperson at that time as well.

I hope this is helpful and answers your questions. If you have further questions feel free to contact me or Assistant Attorney General Peggy Bensinger, who is counsel to the Board in this matter.

Respectfully,

William F. Hinkel

Executive Analyst, Board of Environmental Protection

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**From:** William A Weary <[w.weary@gmail.com](mailto:w.weary@gmail.com)>

**Sent:** Friday, January 29, 2021 11:52 AM

**To:** Hinkel, Bill <[Bill.Hinkel@maine.gov](mailto:Bill.Hinkel@maine.gov)>

**Subject:** BEP Hearing 2/18/21

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Bill, in order to prepare properly for the hearing on the 18th, I'm hoping you can give the abutters some sense of how long the session will be, who will be allowed to speak, and what time limits will be imposed on speakers. Thanks! Bill

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William A. Weary

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