



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

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For: Downeast Wind Project (SLC-14)
Downeast Wind, LLC
T18 MD BPP, T24 MD BPP, Washington County

Certification of Allowed Use

May 19, 2021

Dear Maria:

On May 5, 2021, the Maine Department of Environmental Protection (DEP) submitted to the Land Use Planning Commission (LUPC or the Commission) a Request for Certification for the Downeast Wind Project (Project). The Project proposal was submitted by Downeast Wind, LLC, a subsidiary of Apex Clean Energy, LLC. The Project is located within the unorganized townships of T18 MD BPP and T24 MD BPP, and the Town of Columbia in Washington County. T18 MD BPP and T24 MD BPP are served by the LUPC. The DEP requested that the Commission review the application materials and make a certification determination, as required in 12 M.R.S. § 685-B(1-A) and 38 M.R.S. §§ 488(9-A) and 489-A-1, and as further described in the Memorandum of Understanding (MOU), dated August 31, 2012.

The Request for Certification asks the LUPC to determine if the Downeast Wind Project (a) is an allowed use within the subdistricts in which it is proposed, and (b) the materials included in the application are sufficient to determine whether the project qualifies for certification. The LUPC accepted the Request for Certification as complete for processing on May 19, 2021.

Proposal and Subdistricts Proposed for Development

Downeast Wind, LLC proposes to construct the Project, which will be partially within the areas served by the LUPC. Proposed development within the Commission's service area includes: 30 wind turbines; two temporary meteorological towers; one temporary power performance tower; electrical collections corridors and transmission lines; temporary laydown areas for construction staging; and new (as well as improvement of existing) access roads. The subdistricts affected by the Project are



the General Management (M-GN), Shoreland Protection (P-SL), Floodplain Protection (P-FP), Great Pond Protection (P-GP), Remote Recreation Protection (P-RR), and Wetland Protection (P-WL) subdistricts. The Project will be located entirely within the expedited permitting area for wind energy development.

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.A. § 685-B,(1-A),(B-1)*. "...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...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...before issuing a permit."
2. *12 M.R.S.A. § 685-B(2-C)*. "*Wind energy development; community-based offshore wind energy projects; determination deadline...*
 - 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."

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

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

1. All parts of the Project, as proposed, within the area served by the Commission are wind energy development;
2. The portions of T18 MD BPP, and T24 MD BPP, in which the Project is proposed to be located are within the expedited permitting area for wind energy development; and
3. In the subdistricts in which the Project is proposed to be located, the General Management (M-GN), Shoreland Protection (P-SL), Floodplain Protection (P-FP), Great Pond Protection (P-GP), Remote Recreation Protection (P-RR), and Wetland Protection (P-WL) Subdistricts, wind energy development is an allowed use (*See Chapter 10 of the LUPC's Land Use Districts and Standards, Sections: 10.22,A,3,c,(28); 10.23,L,3,c,(26); 10.23,C,3,c,(22); 10.23,E,3,c,(24); 10.23,I,3,c,(10); and 10.23,N,3,c,(17).*

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 LUPC's determination of the use proposed by the Applicant. 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. The LUPC staff anticipate requesting from the applicant, as soon as possible, additional information needed to complete the review for conformance with the applicable standards in Chapter 10.

If you have any questions or would like to further discuss this matter, please contact Ben Godsoe at the Augusta office by email (benjamin.godsoe@maine.gov) or by telephone at (207) 287-2619.

Sincerely,

A handwritten signature in blue ink that reads "Judy East". The signature is written in a cursive, flowing style.

Judy East, Executive Director
Maine Land Use Planning Commission

cc: Robert Gee, Downeast Wind LLC
Ben Godsoe, LUPC