

**Maine Land Use Regulation Commission  
In The Matter Of: DP4889--Bowers Mountain Wind Project**

**March, 23, 2012**

**Re: Response to 15<sup>th</sup> Procedural Order.**

**From:**

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I was in the process of drafting my response to the applicant's submission dated March 9, 2012 when I received the response from Intervener PPDLW. They have done an excellent job of pointing out the facts, and I find myself in agreement with their filing.

At the December LURC meeting it was made quite clear to everyone that the Commissioners expected the applicant to come back with a revised plan for mitigating the scenic impact of the project, or at the very least, with an outline showing that a revised plan was practical, and could be implemented in a reasonable amount of time, if the applicant's requests and protests of good faith were to be taken seriously. It was also made clear that if this didn't happen, then there would be no choice but to deny the applicant's request for withdrawing the application, and to also deny the application, as had been the original unanimous vote of the Commissioners. While there was obviously great skepticism on the part of both Commissioners and interveners that such a plan could be presented, it was also obvious that the Commissioners wanted to give the applicant every chance to try to present a workable project.

After making multiple references to their 'good faith', and having a full ninety days in which to have their technical, engineering and legal teams work on this revised plan, the applicant chose instead to insult the Commissioners, the interveners, and the entire process, by refusing to submit any such plan, and instead simply blaming circumstances for their plight, while reiterating their request to withdraw the application without prejudice.

Here we have an applicant that, by their own admission, is facing financial difficulty, and for several reasons simply can not, or will not, present a plan to meet the requirements set out by the Commissioners at the December meeting. We have an applicant that has time and again proven itself skilled at gaming and manipulating the system, and taking advantage of the good will and good

intentions of the Commissioners. What we do not have is an applicant who has presented an application that meets the requirements of the law.

I believe that the legal details, with references, have been well presented by Intervener PPDLW, so I will not draw this out with duplication. I will simply say that I believe that it is time to bring this matter to a close, and to do it in a way that is equitable to all those who have an interest in the matter, and in a way that is in line with the laws of the State of Maine. The Commissioners have already voted, unanimously, to deny this permit. At the urging and pleading of the applicant, who promised to make a good faith effort to redesign the project to meet the Commissioner's [and the law's] expectations, they were granted an additional ninety days. Those ninety days have come and gone, and we have seen no good faith attempt to meet the criteria. I do not believe that any reasonable person can make an argument that there is any remedy to this situation other than complete and immediate denial of both the applicant's request to withdraw, and of the permit itself.

We have heard the applicant claim that there is little difference between allowing them to withdraw, and actually denying the permit. This is totally false. If it were true, they would not be pushing so hard to be allowed to withdraw. They would simply accept the vote of the Commissioners. Allowing them to withdraw means that the record will never show that they were denied a permit for this site because they could not meet the legal criteria. It will simply show that the project did not move forward. It will allow the applicant to claim, to the public, to potential investors, and to other permitting and regulatory bodies [in Maine and across the country], that they have never had a project denied. In short, it will be both a major public relations win, as well as a help to permitting and financing any future projects— Including potential projects on this very site. It is the job of the Commissioners to uphold the law and to protect the lands and the People of the Unorganized Territory, not to help improve the public image or further the business plan of any applicant.

We are all aware that due to recent Legislative action, that future wind developments will probably go before the Maine Department of Environmental Protection, instead of LURC. We are also all aware that the DEP, for whatever reason, has never held a public hearing on a wind permit application, and has never done the kind of due diligence and hard questioning and fact finding that this Commission has done in this case. And while we can hope that things will change in the future, we have no reason to believe that if this project [or a very similar one] goes before the DEP in the future, that they will give it the same consideration that this Commission has. This is not said to disparage the DEP, but is merely pointing out the facts at hand. Some of these very facts are currently before the Maine Supreme Judicial Court in the case of the appeal of the Saddleback Ridge wind permit.

I believe that if the letter and intent of the law are to be upheld, and if the hard work of the Land Use Regulation Commission and the interveners in this case are to mean anything at all, then we must have a firm denial on the books for this project. It is the only reasonable and right thing to do. I am asking you to uphold your original vote, and to deny both the request to withdraw, and the the permit itself.

Respectfully,

David P. Corrigan