

From FOPB 12/30/17 FOAA of BPL John Noll re Maine aquaventus

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From: "Noll, John" <John.Noll@maine.gov>
To: "Ayotte, Shannon" <Shannon.Ayotte@maine.gov>
Cc:
Bcc:
Date: Mon, 4 Dec 2017 15:24:24 +0000
Subject: FW: LD 1262

John E. Noll
Submerged Lands Program, Bureau of Parks and Lands
Maine Department of Agriculture, Conservation & Forestry
22 State House Station, Augusta, Maine 04333
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From: Noll, John
Sent: Monday, May 01, 2017 3:42 PM
To: Marvinney, Robert G. <Robert.G.Marvinney@maine.gov>
Subject: RE: LD 1262

Bob, I left a message on your cell. I went back and read the statute a little closer and I generally agree with your conclusions. Sub lands will still need to do a review for public trust impacts resulting from the project but that review will be based on the findings of the general permit.
John

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From: Marvinney, Robert G.
Sent: Monday, May 01, 2017 8:51 AM
To: Noll, John
Subject: FW: LD 1262

Below is Nicks' summary of a discussion with Tom wherein he states that for an for demonstration projects, there is no review associated with obtaining a submerged lands lease. Relevant statute:

Sec. B-1. 12 MRSA §1862, sub-§2, ¶F is enacted to read:

F. Within 15 days of receipt of a copy of an application submitted to the Department of Environmental Protection for a general permit under Title 38, section 480-HH or Title 38, section 636-A, the director shall, if requested by the applicant, provide the applicant a lease option, to be effective on the date of receipt of the application, for use of state-owned submerged lands that are necessary to fulfill the project purposes as identified in the application. Within 30 days of receiving notice and a copy of a general permit granted pursuant to Title 38, section 480-HH or Title 38, section 636-A, the director shall waive the review procedures and standards under this section and issue a submerged lands lease for the permitted activity. The term of the lease must be consistent with that of the permit, including any extension of the permit, and the period of time needed to fully implement the project removal plan approved pursuant to Title 38, section 480-HH or Title 38, section 636-A, as applicable. The director may include lease conditions that the director determines reasonable, except that the conditions may not impose any requirement more stringent than those in a permit granted under Title 38, section 480-HH or Title 38, section 636-A, as applicable, and may

not frustrate achievement of the purpose of the project.

I attach Tom's draft testimony which seems to suggest that Submerged Lands would go through the normal full review process.

Link to the bill schedule: http://www.mainelegislature.org/legis/bills/display_ps.asp?Id=1262&PID=1456&snum=128&sec3

Thanks for your review.

Bob

From: Livesay, Nicholas
Sent: Friday, April 28, 2017 12:44 PM
To: Marvinney, Robert G.; Wells, Mari; Desjardin, Tom
Subject: RE: LD 1262

All:

At this point, I will do my best to stay out of the way. The LUPC's involvement with offshore wind is very limited.

Existing law make clear the LUPC has no role in permitting or otherwise authorizing offshore wind energy demonstration projects. 12 MRS 685-B(1-A)(D), 38 MRS 480-HH(14). Additionally, under Site Law DEP permits offshore wind power projects with an aggregate generating capacity of 3 megawatts or more.

The LUPC's only role as the permitting authority is with regard to community-based offshore wind energy projects. These are defined in 12 MRS 682(19).

Finally, Tom stopped by and asked about submerged lands leases. It appears these are covered in 12 MRS 1862. Renewable energy projects (which include community-based projects) and demonstration projects are both addressed in this section. The demonstration projects (they are permitted by DEP under 38 MRS 480-HH) are covered in Section 1862(2)(F), with renewable energy projects covered in Section 1862(13). For demonstration projects there is no review associated with obtaining a submerged lands lease.

I hope this is helpful. If anyone has any questions, please let me know.

Nick

From: Marvinney, Robert G.
Sent: Friday, April 28, 2017 9:54 AM
To: Wells, Mari; Livesay, Nicholas; Desjardin, Tom
Subject: FW: LD 1262

Latest from DEP regarding lead on this bill, below.

It would be better for DACF to be lead, since DEP had no role in selecting the offshore test sites. I co-

chaired that effort in 2009 with Kathleen Leyden that resulted in selecting the Monhegan test site for the University. We went through an extensive public process that is currently being misrepresented by proponents of this bill. I would be happy to present an opposition testimony that summarizes our public process for site selection.

Bob

Robert G. Marvinney, Ph.D.
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<http://www.maine.gov/dacf/mgs/index.shtml>

From: Loyzim, Melanie
Sent: Thursday, April 27, 2017 4:31 PM
To: Marvinney, Robert G.
Subject: FW: LD 1262

FYI

From: Madore, David
Sent: Thursday, April 27, 2017 4:19 PM
To: Monroe, Angela; Libby, Lance
Cc: Karagiannes, Mike; Loyzim, Melanie
Subject: RE: LD 1262

Just discussing LD 1262 with staff and the siting position is in ACF's jurisdiction not DEP. Do you still want us involved or would you rather send the request over to ACF?
Thanks

From: Madore, David
Sent: Thursday, April 27, 2017 2:43 PM
To: Monroe, Angela; Libby, Lance
Cc: Karagiannes, Mike; Loyzim, Melanie
Subject: RE: LD 1262

We will send a position over with other legislation tomorrow.
Thanks,
Dave

From: Monroe, Angela
Sent: Thursday, April 27, 2017 1:57 PM
To: Libby, Lance
Cc: Madore, David; Karagiannes, Mike; Loyzim, Melanie
Subject: Re: LD 1262

It probably should be a combination because he wanted to see the economics of the project. I assume he would also be interested in the DEP's siting position.

Sent from my iPhone using ZixOne

On Apr 27, 2017 at 1:48 PM "Libby, Lance" <Lance.Libby@maine.gov> wrote:

All,

The Governor will not be able to meet with Habib before the hearing on this bill. Should DEP prepare the position memo for the bill?

Thanks,

Lance Libby
Senior Policy Advisor
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