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PART TWO OF A THREE-PART SERIES

Task force had mandate to promote wind power, not study it



BANGOR DAILY NEWS PHOTO BY BRIDGET BROWN

The three wind turbines of Fox Islands Wind on Vinalhaven are seen in an aerial photo taken in November 2009. The trio of turbines are expected to generate enough electricity to power both Vinalhaven and North Haven islands with an excess power being sold back to the regional grid. The venture is the largest community-owned wind project on the East Coast. [Buy Photo](#)

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AUGUSTA, Maine — Gov. John Baldacci established the Governor's Task Force on Wind Power Development by executive order on May 8, 2007 with the expectation it would make Maine a leader in the wind power industry.

Baldacci's timing was perfect:

- The day before, a CNN story had reported that the price of gas “has hit a new record high, averaging \$3.07 for a gallon of self-serve regular in the United States.”
- Climate change was in the news almost daily.
- Developers and environmentalists had just fought a battle in western Maine over construction of a huge wind power project, ending in defeat for the project.

That battle demonstrated a significant failing in state law: Maine's tangle of environmental regulations simply didn't include tools or standards

appropriate for considering the placement of 400-foot-plus turbines smack in the middle of some of the state's wildest lands.

A look at Maine's wind act

This is part two on a three-part series looking at wind energy in Maine and the laws surrounding it.

- Part 1: [How a task force put wind power on the fast track, and how some are now questioning the goals they themselves helped set.](#)
- [Examining the changes in rules recommended by the task force and the resulting law.](#)
- A new law and its effects on wind power development.

There were different rules at different agencies for different parts of the state, projects took years to review, and the outcome of those reviews was far from predictable.

“Our energy system was broken,” said Pete Didisheim of the Natural Resources Council of Maine. “We felt the permitting process for wind power was also broken, it was unpredictable for all participants.”

Furthermore, wind power promoters believed Maine had an historic opportunity: to provide the renewable resource to help meet the substantial new regional mandates to reduce the use of energy sources that contributed to global warming. Those mandates, which one study estimated would require 11,000 megawatts of wind power (at the time the task force conducted its study, Maine was host to only 42 megawatts of wind power), created a major new market for renewable power, converged with government subsidies and market premiums to create an enticing economic development opportunity, they said — but needed to be capitalized on immediately.

While other states in the region were also considering incentives to promote wind power development, Maine had an advantage over them: More developable wind resources than all the other New England states combined. And that wind was located in areas that didn't have high populations, unlike many other states in the region.

Baldacci gave the task force its mandate:

- To make Maine a leader in wind power development;
- To protect Maine's quality of place and natural resources; and
- To maximize the tangible benefits Maine people receive from wind power development.

In other words, said Rep. Stacey Fitts, a Pittsfield Republican on the task force, their mandate was to “find areas that are appropriate and find ways that it can be done rather than ways to keep it from being done.”

There was never a mandate for the task force to examine the relative merits of wind power development in Maine. Instead, members started from the assumption that wind power should be developed in Maine, and the sooner, the better.

“We felt we were in somewhat of a race with other states and Canadian providers” to build wind energy generation, said Sen. Phil Bartlett, D-Gorham, a task force member and co-chairman of the Legislature’s Utilities and Energy Committee.

Connections: Wind industry and the wind act

The policy that eventually became the Maine Wind Energy Act of 2008 was the product of several public groups and included crucial input from public agencies. There were a number of cases where people from those groups and agencies were either connected to the wind industry or would soon be connected to the wind industry:

Gov. John Baldacci’s Wind Power Task Force

- Dave Wilby: At the time he was on the task force, Wilby worked for the Independent Energy Producers of Maine. He subsequently went to work for wind power developer First Wind.
- Juliet Browne: An attorney at Verrill Dana who heads the Portland law firm’s environmental practice, Browne has guided wind power developer First Wind and TransCanada through the state’s regulatory system. She is married to Rep. Jon Hinck, D-Portland, who at the time was co-chairman of the Legislature’s Utilities and Energy Committee, which unanimously approved the wind power legislation based on the task force’s report.
- Milton McBairty: He was business manager for the electrical workers’ union while on the task force. McBairty subsequently went to work as director, renewable energies for electrical contractor Larkin Enterprises, which had the contract for electrical power and grounding installations at TransCanada’s Kibby wind farm.
- Patrick McGowan: The Department of Conservation commissioner, who left that position to run for governor, had

Questionable goal

Baldacci’s [executive order](#) establishing the task force stated that, “Maine energy policy seeks to promote the development and use of renewable energy sources to help reduce Maine’s dependence on imported fossil fuels.”

The dominant fuel used to generate electricity in Maine is an imported fossil fuel — natural gas from Canada. And wind power could make a small dent in how much natural gas Maine uses for electricity generation.

But Baldacci’s statement about dependence on imported fossil fuels — and many others he made both before and subsequently, including one reference to the “tyranny of foreign oil,” one reference to the need to “free ourselves from foreign oil” and two references to Maine’s “dependency on oil” in his final State of the State address — implicitly tied wind energy production to the goal of reducing the use of foreign oil, with its volatile prices as well as its documented contribution to climate change.

Yet using wind energy doesn’t lower dependence on imported foreign oil. That’s because the majority of imported oil in Maine is used for heating and transportation.

been at the center of a significant controversy over his advocacy for a wind power project while he was commissioner. That's when he contacted Land Use Regulation Commission member Ed Laverty, in the middle of the commission's deliberations over the controversial Redington-Black Nubble wind power project, to ask, as Laverty reported, "if I would poll the other commissioners to determine if there was a way to get the majority to vote for the proposed project. I told him as this was an ongoing regulatory process, I felt for me to do so might be improper." While an investigation by the attorney general's office determined McGowan's intervention had not risen to the level of illegal "ex parte" communication, he was required to undergo training on proper procedure by staff in the attorney general's office.

Legislature's Utilities and Energy Committee

- Jon Hinck: Co-chairman of the committee, the Portland Democrat is married to Juliet Browne, who was on the governor's wind power task force and is the leading attorney for wind power interests in the state. Anti-wind-power activists charged that Hinck had a conflict of interest in considering legislation that his wife's clients would benefit from, and that criticism eventually led him to request a ruling by the state Commission on Governmental Ethics whether he was prohibited by Maine law from participating in deliberations and votes on wind power legislation. The commission ruled he was not.

Public Utilities Commission

- Kurt Adams: When the governor's task force was doing its work, Adams was head of the state's Public Utilities Commission, although he had already had communication with wind developer First Wind about possibly

"Maine uses very little oil to produce electricity," said Mark Isaacson, a dam owner, a founding member of the industry group Independent Energy Producers of Maine and the developer of a relatively small commercial wind farm in Freedom, Maine.

John Kerry, the governor's energy czar and a member of the task force, acknowledged that oil is used to fuel vehicles and to warm Maine buildings.

"Today we don't use electricity to run our cars or heat our homes," said Kerry in a recent interview.

And switching our dependence from foreign oil to Maine-produced electricity isn't likely to happen very soon, said Bartlett. "Right now, people can't switch to electric cars and heating — if they did, we'd be in trouble."

So was one of the fundamental premises of the task force false, or at least misleading?

Kerry, the governor's energy czar, defends his boss's premise: "In the future, many people have proposed that we use our electricity to heat our homes and power our cars."

There were other claims Baldacci made at the time about wind power's advantages that, similarly, have been challenged.

In a [critique published by the Maine Center for](#)

going to work for them. In their report, task force members wrote “PUC Chairman Kurt Adams and agency counsel Mitch Tannenbaum, and DEP Commissioner and Task Force member David Littell were particularly helpful to the Task Force in developing and presenting information regarding the regional energy system, electric transmission, the Regional Greenhouse Gas Initiative, and other renewable energy policy issues as they relate to wind power.”

Adams left the PUC to take a high-level position with First Wind in May, 2008; in April, he had received 1.2 million units of equity in First Wind — akin to stock options — while he was still at the PUC. An investigation by Attorney General Janet Mills determined Adams had done nothing wrong.

— *BY NAOMI SCHALIT*

Economic Policy in late 2008, state Sen. Peter Mills, R-Cornville, argued that after the initial construction spending, the wind energy industry would not provide widespread economic benefit for the state or long-term job creation, as Baldacci asserted when he established the task force.

“Because it takes remarkably little effort to maintain a turbine, there are few permanent jobs created by a wind power project,” writes Mills. In a subsequent interview, Mills pointed to the relatively few jobs created by the Kibby Mountain wind power development. “There are 11 people in ongoing jobs,” he said, “not 111.”

Likewise, while taxes paid on wind power installations

have been locally beneficial, they are not broadly shared across Maine.

“The tax benefit has not been available to Maine people generally,” said Mills in the interview. The duration of any tax benefit is also limited, said Mills, because the turbines have a 20-year life-span and depreciate in value over that period.

Furthermore, the unorganized territory, or UT, where many of the large installations have been built, “already has the lowest tax rates in Maine,” Mills wrote in his critique. “(A)nd wind power could reduce them by a third more.

“But the benefit will accrue primarily to those who own land in the UT, the large out-of-state owners like Irving, Wagner and Plum Creek who already benefit from the special ‘tree growth’ tax treatment ... and who stand to gain substantially from leasing their ridge tops to the wind developers.”

Task force favored it

There were 16 members on the task force: several members of the Baldacci administration; a wind power attorney; two staff from state environmental groups (with a third acting as an alternate); Democratic and Republican lawmakers; a union member and a representative of the Independent Energy Producers of Maine. The chairman was Alec Giffen, director of the Maine Forest Service.

All members of the task force publicly favored wind power development, although the environmental groups had each opposed specific wind power projects in the past. The environmental groups' battle against the Redington wind project in western Maine, close to the Appalachian Trail, had recently ended with Redington's rejection by the Land Use Regulation Commission. While they won the fight to reject Redington, the groups were chastened by accusations of being insufficiently concerned with stemming global warming.

Did the criticism leveled at the environmental members of the task force make them more eager to demonstrate their support for wind power?

"I think we did start with an assumption that wind power development was going to take place in Maine," said David Publicover, a forestry specialist with the Appalachian Mountain Club. "We never really engaged in an argument as to whether there should be wind power development in Maine."

What changed

The [task force proposed](#) that the Legislature make significant changes to state law:

- Eliminate certain scenic and zoning standards that were a barrier to placing wind turbines in the landscape;
- Streamline and expedite consideration of construction proposals;
- Eliminate a layer of legal appeal in wind power projects;
- Set aggressive goals for wind power production over the next dozen years — 2,000 megawatts of wind power capacity by 2015 and at least 3,000 megawatts by 2020, of which 300 should be built offshore. (The state today has 111 turbines representing 265 megawatts of installed wind power, with 161 megawatts in line to begin production.)
- Guide wind power development to all of the incorporated towns in the state as well as a significant portion of territory under the jurisdiction of the Land Use Regulation Commission, setting aside areas in the so-called "core" of LURC where development would not occur.

The changes in the scenic and zoning standards, said David Publicover of the AMC, were significant but not hard to agree upon.

"The changes got rid of the requirement that it fit harmoniously into the natural landscape," said Publicover. "If you used that, you couldn't have wind power in undeveloped ridgelines, only in Wal-Mart parking lots."

The changes also allowed wind power to be essentially an allowed use in much of LURC's jurisdiction.

"Previously wind power had to go through rezoning" in LURC territory in order to be built, said Publicover. "And that had certain criteria, certain hurdles that had to be met that, if you interpreted them with a straight face, you could never allow it and essentially LURC was in the uncomfortable position of having to ignore the actual meaning of their regulations to allow wind power."

The 2,000 and 3,000 megawatt goals for the state were also not controversial, nor was the substantial amount of wind turbine construction, largely along miles of Maine mountaintops, that would be necessary to reach that goal.

When asked if the task force had discussed the number of turbines that would have to be erected to meet that goal, chairman Giffen said, “Not that I recall.”

Other members of the task force could also not remember any discussion about the number of turbines, although one attendee at meetings, Steve Clark from the Appalachian Trail Conservancy, did present the task force with his estimate that it would take 1,000 to 2,000 turbines to meet the goal.

“There were one or two very brief questions and that was it, they didn’t explore that issue any further,” said Clark.

Next: A new law and its effects on wind power development