

FRIENDS OF LINCOLN LAKES et al.

v.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Submitted on Briefs June 1, 2011

Decided June 6, 2011

Panel: SAUFLEY, C.J., and LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

This matter is before us on (1) Friends of Lincoln Lakes's petition to review a Department of Environmental Protection (*Nagusky, Acting Comm'r*) condition compliance order related to party-in-interest Evergreen Windpower III, LLC's permit for an expedited wind energy development, *see* 38 M.R.S. § 346(4) (2010); and (2) Evergreen's motion to dismiss the petition.

The record does not establish that FOLL "intervene[d] and participate[d] as a full or limited party" to Evergreen's prior permit application proceeding or the condition compliance application proceeding. *See* 5 M.R.S. § 9054(2) (2010). Therefore, as an aggrieved nonparty, FOLL had "40 days from the date the decision was rendered to petition for review." 5 M.R.S. § 11002(3) (2010). Because FOLL filed its petition more than forty days after the Department issued the condition compliance order, we must dismiss it as untimely, and we do not reach the merits of the petition.

The entry is:

Petition dismissed.

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Department of Environmental Protection approval case number L-24402-24-D-C
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