

MARGOT FREEMAN FAMILY TRUST

v.

BOARD OF ENVIRONMENTAL PROTECTION

Submitted on Briefs April 20, 2005
Decided April 29, 2005

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, CALKINS, and
LEVY, JJ.

MEMORANDUM OF DECISION

The Margot Freeman Family Trust (the Trust) appeals from a judgment entered in the Superior Court (Kennebec County, *Studstrup, J.*) affirming the decision of the Board of Environmental Protection which affirmed the decision of the Department of Environmental Protection denying the Trust's application to construct a 130-foot permanent dock in a coastal wetland in Georgetown pursuant to the Natural Resources Protection Act, 38 M.R.S.A. §§ 480-A to 480-Z (2001 & Supp. 2004). We affirm the judgment.

Contrary to the Trust's contentions, the record supports the Board's finding (1) that the salt marsh on the Trust property is a "significant wildlife habitat" pursuant to 38 M.R.S.A. § 480-B(10) (2001); (2) that the project would unreasonably harm aquatic habitat pursuant to 38 M.R.S.A. § 480-D(3) (Supp. 2004); and (3) that the Trust failed to demonstrate that there is no less damaging alternative to the proposed dock. *See S.D. Warren Co. v. Bd. of Env'tl. Prot.*, 2005 ME 27, ¶ 4, 868 A.2d 210, 213; *Murphy v. Bd. of Env'tl. Prot.*, 615 A.2d 255, 259 (Me. 1992). The Trust was not denied due process in the licensing proceeding. *See Ethyl Corp. v Adams*, 375 A.2d 1065, 1073 (Me. 1977).

The entry is:

Judgment affirmed.

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