



WILLIAM W. SCHROEDER  
bschroeder@drm.com

August 22, 2011

**VIA EMAIL AND U.S. MAIL**

Mrs. Susan M. Hudson, Clerk  
Vermont Public Service Board  
112 State Street  
Montpelier, VT 05620-2701

Re: Georgia Mountain Community Wind Project; PSB Docket No. 7508  
Georgia Mountain Maples Project – Permit Exemption Rulings

Dear Mrs. Hudson:

Public Service Board Members James Volz and John D. Burke conducted a site visit on August 17, 2011 to view the construction and other activities for the Georgia Mountain Maples project off North Road.

During the site visit, one of the Board Members requested that the petitioner, Georgia Mountain Community Wind, LLC, provide copies of the permit exemption rulings for the maple sugaring operation obtained by representatives of Georgia Mountain Maples, LLC.

Please find enclosed copies of the following exemption rulings:

1. E-mail from Geoffrey Green, District Coordinator for District Environmental Commission No. 4, dated April 5, 2011, advising that the proposed maple syrup production constitutes “farming” and is exempt from Act 250.
2. Letter from Wendy Anderson, Chief of the Enforcement Section of the Vermont Agency of Agriculture, Food and Markets Agricultural Resource Management Division, dated April 11, 2011, ruling that the proposed sugaring operation constitutes an accepted agricultural practice.

3. E-mail from Regina Mahony, Town of Milton Planning Director, dated June 9, 2011, finding that the road construction for the maple sugaring operation is exempt from municipal zoning review.

The petitioner does not intend to submit any additional comments relating to the August 17 site visit. The petitioner will rely on the letter and affidavits submitted to you on April 8, and the Board Members' observations during the site visit. Thank you for your continued attention to this matter.

Very truly yours,



William W. Schroeder

Enclosures

cc: Mr. James Harrison  
Attached Service List

4604564.1



**Georgia Mountain Community Wind Project, PSB Docket No. 7508  
Service List**

**Parties:**

James H. Porter, III, Esq.  
John Beling, Esq.  
Special Counsel  
Vermont Department of Public Service  
112 State Street, Drawer 20  
Montpelier, VT 05620-2601

Kimberly K. Hayden, Esq.  
Downs Rachlin Martin PLLC  
199 Main Street, P.O. Box 190  
Burlington, VT 05402-0190

Judith Dillon, Esq.  
Cielo Marie Mendoza, Esq.  
David Englander, Esq.  
Vermont Agency of Natural Resources  
103 South Main Street, Center Building  
Waterbury, VT 05671-0301

Joseph S. McLean, Esq.  
Stitzel, Page & Fletcher, P.C.  
171 Battery Street  
P.O. Box 1507  
Burlington, VT 05402-1507

William F. Ellis, Esq.  
McNeil, Leddy & Sheahan, P.C.  
271 South Union Street  
Burlington, VT 05401

Kenneth A. Nolan  
Burlington Electric Department  
585 Pine Street  
Burlington, VT 05401

Greta Brunswick, Land Use Planner  
Northwest Vermont Regional Planning  
Commission  
155 Lake Street  
Saint Albans, VT 05478

George A. and Kenneth N. Wimble  
Wimble Brothers Organic Dairy  
1495 Georgia Mountain Road  
Fairfax, VT 05454

Kenneth and Virginia Mongeon  
20 Ted Road  
Milton, VT 05468

Kevin and Cynthia Cook  
23 Hillside Place  
Milton, VT 05468

Scott and Melodie McLane  
1179 Georgia Mountain Road  
Fairfax, VT 05454

Daniel and Tina FitzGerald  
P.O. Box 77 (40 FitzGerald Place)  
Milton, VT 05468

Matthew and Kimberly Parisi  
1627 Georgia Mountain Road  
Fairfax, VT 05454

**Georgia Mountain Community Wind Project, PSB Docket No. 7508  
Service List**

Jane FitzGerald  
450 North Road  
Milton, VT 05468

Brian Palaia, Town Manager  
Town of Milton  
43 Bombardier Road  
Milton, VT 05468-3205

C. Daniel Hershenson, Esq.  
Nathan H. Stearns Esq.  
Hershenson, Carter, Scott & McGee P.C.  
P.O. Box 909  
Norwich, VT 05055-3344

4006109

**Subject:** FW: Georgia Mountain Sugaring Operation

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**From:** Green, Geoffrey [mailto:Geoffrey.Green@state.vt.us]

**Sent:** Tuesday, April 05, 2011 9:57 AM

**To:** Peter Cross

**Subject:** RE: Georgia Mountain Sugaring Operation

Peter;

The production of maple syrup is considered "Farming", pursuant to T.10 § 6001(22) and therefore exempt from Act 250 jurisdiction. All you should need to do is point that exemption out to the neighbors, a copy of the statute and the rules can be found on the Natural Resource Board, Land Use Panel's Web site.

If I can be of further assistance, please call.

Sincerely,

Geoff



AGENCY OF AGRICULTURE, FOOD & MARKETS  
Agricultural Resource Management Division  
James H. Leland, Director

www.vermontagriculture.com

116 State Street • Montpelier, Vermont 05620-2901 • (802) 828-2431 • (802) 828-1410 FAX

April 11, 2011

Ms. Kathy Rabtoy  
H.W. Ventures  
P.O. Box 2098  
Georgia, Vermont 05468

Dear Ms. Rabtoy,

Peter Cross of Cross Consulting Engineers, P.C., has submitted information to the Agency regarding the proposal by Georgia Mountain Maples, LLC and H. W. Ventures, LLC to build a sugarhouse and store sugaring-related supplies in shipping containers on your property located at 351 North Road, Milton, Vermont. This information was provided to the Agency in Emails dated 3/30/11, 4/1/11, and 4/5/11. This information was provided so the Agency can render its opinion on whether the proposed sugarhouse and associated storage containers would be considered farm structures and exempt from local zoning under Title 24 §4413. Based on the information provided, it is the Agency's understanding that the following is proposed:

Georgia Mountain Maple and H. W Ventures, LLC propose to construct a maple sugaring operation on property owned by H. W Ventures, LLC at 351 North Road in Milton. The operation will include a new sugarhouse, an access drive to the sugarhouse, and a pipeline collection system. All sap used in the operation will come from trees at this site, or from land that may be leased in the future. In addition, two shipping containers, 20 feet in length, would be located on site and used for the storage of equipment related to the sugaring operation.

Section 2.05 of the Accepted Agricultural Practices Regulations (AAPs) states

Farming means:

...

(d) the production of maple syrup; or

(e) the on-site storage, preparation and sale of agricultural products produced principally produced on the farm

...

Section 3.2 of the Accepted Agricultural Practices Regulations (AAPs) states "Agricultural practices that are governed by these regulations include, but are not limited to, the following:

...

(c) The collection of maple sap and production of maple syrup.

...

(g) The construction and maintenance of farm structures and farm roads.

...

- (i) The on-site storage, preparation and sale of agricultural products principally produced on the farm.

Since your proposed operation will involve the production of maple syrup from sap collected from trees on land that you own or may rent in the future, the **proposed sugaring operation, along with the construction of a farm road to the sugarhouse**, is considered farming and you will be engaged in accepted agricultural practices.

Also, according to AAP Section 2.06, a "farm structure means a structure or structures as defined herein that is used by a person for agricultural production that meets one or more of the following:

- (a) is used in connection with the sale of \$1000 or more of agricultural products in a normal year; or
- (b) is used in connection with the raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratites (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout; or
- (c) is used by a farmer filing with the Internal Revenue Service a 1040 (F) income tax statement in at least one of the past two years; or
- (d) is on a farm with a business and farm management plan approved by the Secretary.

The Agency has no record of an approved business or farm management plan as set forth in (d). However, based on the volume of maple syrup you anticipate producing, your sales will likely be in excess of \$1,000.00. Therefore, the sugar house **would** meet the requirement of 2.06(a) and would, therefore, be a farm structure that, in the Agency's opinion is exempt under 24 V.S.A. §4413(d) from local zoning and, therefore, exempt from the need to obtain local permits.

However, **please note**, shipping containers do not meet the definition of "structure" and therefore cannot be considered "farm structures" (See AAP Section 2.18 which states: "Structure means a silo, a building for housing livestock, raising horticultural or agronomic plants, or for carrying out other accepted agricultural practices as defined in Section 3.2 of these rules. It also means a barnyard or waste management system, either of which is created from an assembly of materials, but excludes a dwelling for human habitation.") As such, these containers may not be exempt from municipal zoning regulations.

Finally, while the construction of a farm road is considered an accepted agricultural practice, you should check with your Town to determine if any requirements pertain to the construction of a farm road that will intersect with a town road or public highway (requirements for curb cutting, etc.).

A copy of the AAPs is enclosed. The Agency recommends that you read through the entire AAP booklet and seek clarification if you have questions about the rules.

Please note that this determination is being based on your projections of the income to be generated by your proposed sugaring operation. If circumstances change and the operation no longer meets the regulatory definition of a farm structure, the structure would no longer be exempt from any local zoning requirements that may apply.

This letter outlines the Agency's position based on the information you have provided. Although the Agency's position on whether the proposed structure is a "farm structure" may carry some weight, ultimately the application and enforcement of municipal zoning law and the exemption in 24 V.S.A. §4413(d) rests with each town.

Feel free to contact me with questions at 802-828-3475.

Best regards,

  
Wendy Anderson, Chief  
Enforcement Section  
Agricultural Resource Management Section

CC: David Joachim, Zoning Administrator  
Town of Milton



**Kathy**

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**From:** Regina Mahony [rmahony@town.milton.vt.us]  
**Sent:** Thursday, June 09, 2011 3:25 PM  
**To:** Peter Cross  
**Cc:** Kathy; Carrie Violette; Janet Harrison  
**Subject:** RE: Georgia Mountain Maple

Thanks Peter. The extraction and preparation of the materials on site, as you've described below, for the road construction is exempt from local review as it is an inherent part of the road construction which Wendy has stated is exempt in her April 11, 2011 letter.

I know that this original proposal also included some storage trailers. I trust that David Joachim informed you that those are not exempt from local review. If you want the storage structures you need to come in for a Site Plan application to the DRB. If the structures are temporary construction trailers, you will need to apply for a Zoning Permit and they can be there for a maximum of 6 months.

Thank you,  
Regina Mahony

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**From:** Peter Cross [mailto:PCross@crossconsultingengineers.com]  
**Sent:** Thursday, June 09, 2011 3:05 PM  
**To:** Regina Mahony  
**Cc:** Kathy@harrisonconcreteinc.com; Carrie Violette; Janet Harrison  
**Subject:** RE: Georgia Mountain Maple

Regina: Thanks for the reply. There will not be any impacts to wetlands or any other identified natural resources as a result of this project. The blasting will be done by a qualified company who is properly insured. The only nearby properties are two houses on Shotwell Road. My client is willing to conduct pre and post blast inspections of those properties, as long as the landowners permit this. The inspections will be done by the blasting company. Attached is the letter you requested.

I hope this sufficiently addresses your concerns. Thank you.

Peter Cross, PE

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**From:** Regina Mahony [mailto:rmahony@town.milton.vt.us]  
**Sent:** Tuesday, June 07, 2011 12:24 PM  
**To:** Peter Cross  
**Cc:** Kathy@harrisonconcreteinc.com; Carrie Violette  
**Subject:** Georgia Mountain Maple

Hi Peter,

8/18/2011

it is imperative that the blasting of ledge and crushing of stone is occurring outside of wetlands and other significant natural resources and that there will be pre and post inspections of neighboring properties in relation to the blasting of ledge. Please respond to me and let me know if that will be the case. If that is the case, I will find that the preparation of the materials on site for the road construction is exempt from local review as it is an inherent part of the road construction which Wendy has stated is exempt in her April 11, 2011 letter.

Also would you please be able to send me a copy of the April 11, 2011 letter? I have read it, however it was in David Joachim's files and I can't find a copy in the main file.

It sounds like Wendy is advising you to make sure that the blasting of ledge and crushing of stone is exempt from Act 250. It is clear that the sugaring operation is, but you may want to double check with them on the extraction and preparation of materials for the road.

Thank you,

Regina Mahony, AICP  
Planning Director  
Town of Milton  
Department of Planning & Economic Development  
43 Bombardier Road  
Milton, VT 05468-3205  
phone: 802-893-1186  
fax: 802-893-1005  
email: [rmahony@town.milton.vt.us](mailto:rmahony@town.milton.vt.us)  
website: [www.milton.govoffice2.com](http://www.milton.govoffice2.com)

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**From:** Peter Cross [<mailto:PCross@crossconsultingengineers.com>]  
**Sent:** Monday, June 06, 2011 9:26 AM  
**To:** Regina Mahony  
**Cc:** Janet Harrison  
**Subject:** FW: Georgia Mountain Maple

Regina: Attached is the Ag Dept response to our latest question about Georgia Mountain Maples. This was emailed to David, so I don't know if you saw it. I am also attaching an email from Geoff Green confirming the project is exempt from Act 250. Let me know if you have any questions.

Peter Cross

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**From:** Houston-Anderson, Wendy [<mailto:Wendy.Houston-Anderson@state.vt.us>]  
**Sent:** Friday, June 03, 2011 5:15 PM  
**To:** Kathy; Peter Cross; [djoachim@town.milton.vt.us](mailto:djoachim@town.milton.vt.us)  
**Subject:** Georgia Mountain Maple

Hello Kathy, Peter and David,

Please see the attached letter regarding the proposed construction of a sugar house and farm road at the Georgia Mountain Maple site in Milton.


Please call with any questions or concerns.

8/18/2011

Best regards,  
Wendy Anderson  
828-3475

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**From:** Peter Cross [mailto:PCross@crossconsultingengineers.com]  
**Sent:** Wednesday, March 30, 2011 12:41 PM  
**To:** Houston-Anderson, Wendy  
**Cc:** Kathy; dave@town.milton.vt.us  
**Subject:** Georgia Mountain Maple

 Letterhead-RGB\_small

Wendy: Here is our letter requesting the Agency's opinion on the subject project. I've also enclosed a simple site plan to show that the setbacks will be met.

Thank you for your assistance.

Peter

Peter H. Cross  
103 Fairfax Road  
St. Albans, VT 05478  
Tel 802-524-2113  
Fax 802-524-9681

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Disclaimer, please be advised that your email communication to the Town may be considered public record and may be subject to disclosure under the Vermont Open Public Records Act.

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8/18/2011