

February 6, 2012

**Hand Delivered**

Ms. Susan Hudson, Clerk  
Vermont Public Service Board  
112 State Street, Drawer 20  
Montpelier, VT 05620-2701

**Re: Docket No. 7508 – Georgia Mountain Community Wind Request for Board Action**

Dear Ms. Hudson:

Please accept this letter, signed on behalf of the Landowner Intervenors<sup>1</sup>, in response to the Board's request for comment on the January 20, 2012 letter submitted by Georgia Mountain Community Wind, LLC ("GMCW").

In GMCW's letter, Attorney Hayden seeks clarification or modification of Conditions 8 and 11 of the Certificate of Public Good ("CPG") issued by the Board. The claims by GMCW in this latest submission should be denied for the following reasons:

1. The request is untimely being filed more than eighteen months since the Board issued a CPG on June 11, 2010.
2. The alleged need for relief is entirely due to a failure of GMCW to fully understand and act on the conditions in its CPG.
3. GMCW's assertions relative to federal Section 1603 funding are contradicted by prior claims made by the company and false and/or misleading.

**ARGUMENT**

**1. The request is untimely.**

The Board issued a CPG to GMCW on June 11, 2010. Conditions 8 and 11 have not changed since the CPG was issued. If GMCW had concerns with these two conditions, the time to raise those concerns would have been during the appeal period in accordance with Rule 59 E, of Vermont Rules of Civil Procedure. Yet, GMCW never filed a timely motion to alter or amend a judgment. Instead, it waited more than eighteen months after the CPG was issued before submitting this letter requesting the Board "to clarify, or in the alternative modify" the CPG.

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<sup>1</sup> 1. Daniel and Tina Fitzgerald, Kenneth and Virginia Mongeon, Kevin and Cindy Cook, George A. and Kenneth N. Wimble, Scott and Melodie McLane, Matthew and Kimberly Parisi, and Jane and Heidi FitzGerald (collectively, "Landowner Intervenors").

**2. The need for relief is due to GMCW's own failure to fully understand and act on the CPG conditions.**

A simple reading of GMCW's letter suggests the company did not even bother to understand the requirements of conditions 8 and 11 until just recently. GMCW's failure to review the CPG and understand these conditions is not justification to now impose on the Board and the other parties of this Docket to accommodate such failure.

**3. GMCW's assertions relative to federal Section 1603 funding are contradicted by prior claims made by the company and false and/or misleading.**

a. GMCW's letter dated November 4, 2011 explains the conditions under which GMCW can avail itself of federal funding under Section 1603. The November letter includes this wording:

"...GMCW must commence construction of the access road this month [November]. Under Section 1603, qualified property must be originally placed in service between January 1, 2009, and December 31, 2011 (regardless of when construction begins) or placed in service after 2011 and before the credit termination date if construction of the property begins between January 1, 2009, and December 31, 2011. GMCW requests that the Board authorize GMCW to proceed with commencement of the access road now, before winter weather prohibits commencement of construction activities prior to the December 31, 2011 deadline."

b. GMCW's January 10, 2012 letter, GMCW establishes through affidavits and exhibits that "no construction of the wind farm has occurred." GMCW insists that all blasting activity initiated near the project site was "in connection with the extension of an existing trail on the Georgia Mountain East Lot..." The letter goes on to explain that "...blasting also occurred in the spring of 2011 off of North Road on the Georgia Mountain Lot" in connection with the Harrison's sugaring operation.

c. If GMCW's earlier representations made to the Board regarding Section 1603 eligibility are to be taken at face value, then at a minimum, the company's current assertion that changes to conditions 8 and 11 are necessary for the project to meet federal deadlines is false. By its own statements, GMCW has already missed the December 31, 2011 deadline by five weeks.

d. If GMCW believes it is still eligible for Section 1603, it should be required to supply the Board and all parties with credible proof of this fact before the Board is asked to act on its request. Further, GMCW should be required to demonstrate how the below statement from its January 20 letter is truthful given its prior assertions.

"A delay of over four months would preclude GMCW from commencing site clearing and road work this winter, and would severely impact the ability of GMCW from completing construction and achieving commercial operation by December 31, 2012, the deadline for commercial operation required under Section 1603 of the American Recovery and Reinvestment Act."

Separate from our comments relative to GMCW's request, the Landowner Intervenors wish to comment on the inappropriateness of Attorney Hayden's letter. A request for action by the Board that may result in a significant change to the conditions imposed on GMCW should have been made through a motion rather than the more casual letter. We appreciate the Board's request for comment in this situation but had a motion been filed, all parties would have received automatic opportunity to file objections to the motion.

For the reasons cited above, we respectfully ask that this honorable Board:

A. Deny GMCW's request for relief from conditions 8 and 11;

B. Require GMCW to provide proof that it has not misled the Board or the parties to this Docket relative to Section 1603 funding;

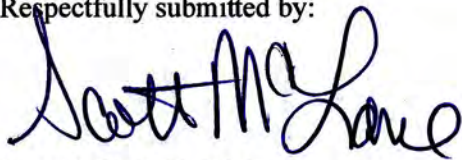
C. Provide substantiation for how and why the GMCW project can still meet eligibility under Section 1603.

D. Instruct GMCW to follow appropriate procedures for filing motions in future matters involving this Docket.

E. Grant such further relief as it deems equitable and appropriate.

We wish to thank the Board in advance for considering these comments.

Respectfully submitted by:

A handwritten signature in blue ink, appearing to read "Scott & Melodie McLane". The signature is written in a cursive, flowing style.

Scott & Melodie McLane  
for the Landowner Intervenors

cc: Service List

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