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State of Vermont
Public Service Board

MEMORANDUM

To: Parties in PSB Docket No. 7508 (Re: Georgia Mountain Wind Project)

From: Susan M. Hudson, Clerk of the Board *SH*

Re: Site preparation and construction

Date: December 9, 2010

On June 11, 2010, the Public Service Board ("Board") issued an Order and Certificate of Public Good ("CPG") approving construction of a wind generation facility on Georgia Mountain by Georgia Mountain Community Wind, LLC ("GMCW"). The CPG contained conditions requiring that GMCW file, for approval by the Board prior to construction, plans for the access roads and other infrastructure.

On September 15, 2010, Kenneth and Virginia Mongeon filed a letter regarding work that was conducted on Ted Road¹ and logging activities along the proposed access road. The Mongeons request that the Board "order Petitioner to cease any further construction or site preparation until such time as the plans and proposals ordered by the Board have been submitted and approved." Scott and Melodie McLane, Daniel and Tina FitzGerald, Jane and Heidi FitzGerald, George and Kenneth Wimble, Matt and Kim Parisi, and Kevin and Cindy Cook join in the Mongeons' request (collectively, the "Landowner Interveners").

On September 16, 2010, GMCW filed a letter and accompanying affidavits stating that the work on Ted Road consisted of adding gravel and regrading the surface of Ted Road, in response to an inquiry by the town Zoning Administrator prompted by a complaint from a homeowner on Ted Road. GMCW states that it did not authorize the contractor undertaking these activities to widen or realign Ted Road. GMCW contends that the work on Ted Road was not related to site preparation for the wind generation facility.

¹Ted Road is a private road owned by the Petitioner. Under GMCW's proposal, Ted Road would be used to access the site of the wind generation facility and would be widened to accommodate construction vehicles.

On October 4, 2010, the Landowner Intervenor filed a letter stating that Ted Road had been widened, despite GMCW's assertions to the contrary. The Landowner Intervenor further state that there have been multiple complaints regarding the condition of Ted Road over the past years with no response, and suggest that the improvement to Ted Road had only been undertaken now that the road needs to be upgraded in association with the wind generation facility. The Landowner Intervenor also note that GMCW's September 16 filing does not address the logging along the proposed access road. The Landowner Intervenor include photographs depicting the flagged centerline of the proposed access road and the logging that generally follows the flagging. The Landowner Intervenor further assert that the logging has been conducted in close proximity to the adjoining property of Jane FitzGerald, and that such activity has resulted in water being diverted onto the adjacent property, causing erosion.

On October 27, 2010, GMCW filed a letter stating that the Petitioner harvested firewood along the existing ATV trail, consistent with past practice. The October 27 filing includes an affidavit from the project's civil engineer stating that the recent tree harvesting activity removed only a portion of the trees and brush within the clearing limits for the proposed access road. GMCW contends that the logging was not related to site preparation for the wind generation facility.

On October 28, 2010, the Agency of Natural Resources ("ANR") filed a letter stating that it had conducted a site visit to review possible impacts of the activities along Ted Road on the Class II wetland in the area. ANR states that some stormwater runoff from a log landing at the end of Ted Road, as well as run-off from Ted Road itself, has entered wetlands. ANR recommended that GMCW repair a silt fence and employ erosion-control measures. ANR represented that GMCW agreed to undertake these activities.

On November 8, 2010, Board staff conducted a site visit to view the activities that had occurred on Ted Road and the tree clearing along the existing ATV trail. Advance notice of the site visit was provided to the parties, a number of whom attended the site visit.

Based upon the observations of staff made at the site visit, as well as the representations made by GMCW, the Board has concluded that the activities along Ted Road and the existing ATV trail do not constitute site preparation or construction related to the wind generation facility.

The logging that occurred along the ATV trail generally follows the center line of the proposed access road; however, the proposed access road generally follows the existing ATV trail. In certain areas, the logging activity appears to more closely track the centerline of the existing ATV trail than it tracks the centerline of the proposed access road. The logging that occurred along the proposed access road did not remove all of the trees within the clearing limits of the proposed access road; if the logging were conducted in preparation for construction, it is likely that the Petitioner would have logged to the

clearing limits of the proposed access road and followed the centerline of the proposed access road rather than the ATV trail. Finally, it was evident from the site visit that logging activities had occurred in the past along the existing ATV trail, and therefore logging was not a new activity in the area.

Regarding Ted Road, GMCW states that it has not widened the base of the road, which would be needed for construction of the project. However, based upon observations of staff at the site visit, when the road was graded, the gravel was pushed onto the grass area along the sides of the road, resulting in the appearance of a wider road.

A petition filed under 30 V.S.A. § 248 does not terminate the ability of the Petitioner to conduct otherwise lawful activities on its land, provided that these activities do not conflict with any requirements contained in a certificate of public good issued by the Board.

For the reasons explained above, the Board has determined that it will take no action with respect to the Mongeons' request.