

112 State Street
4th Floor
Montpelier, VT 05620-2701
TEL: 802-828-2358



TTY/TDD (VT): 800-253-0191
FAX: 802-828-3351
E-mail: psb.clerk@state.vt.us
Internet: <http://www.state.vt.us/psb>

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 *SMH*

Re: Site preparation and construction

Date: September 13, 2011

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") in Georgia, Vermont (the "Project"). 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 March 25 and 28, 2011, Tina FitzGerald sent an e-mail to the Clerk of the Board stating that a road was being constructed on the project site, contrary to the requirements contained in the June 11 CPG.

On April 8, 2011, GMCW filed a response to Ms. FitzGerald's e-mails. GMCW stated that the Harrison family¹ "is developing a maple sugaring operation on the site, consisting of a sugarhouse, an access road, and a pipeline system for collecting sap. The improvements are not related to the wind farm project." The April 8 filing included an affidavit from James Harrison stating that the improvements for the maple sugaring operation are located in a different area of the property than the proposed access road for the wind project.

On May 13, 2011, the Clerk of the Board issued a memorandum stating that the Board would not take further action with respect to Ms. FitzGerald's e-mails because the Board had determined that the work on the Harrison family's property did not involve the commencement of construction of the wind generation facility and, therefore, did not conflict with any requirements in the CPG.

¹James Harrison is a member of H.W. Ventures, LLC, the owner of the wind project site.

On June 14 and 28, 2011, Tina FitzGerald sent an e-mail to the Clerk of the Board stating that road construction and other activities were being conducted off of North Road, contrary to the requirements contained in GMCW's June 11 CPG.

On June 30, 2011, GMCW filed a response to Ms. FitzGerald's e-mails. GMCW's letter stated that construction activities and improvements for a maple sugaring operation, including a sugarhouse, an access road, and a pipeline system for collecting sap, "are not related to the wind farm." The June 30 filing included an affidavit from Peter Cross, stating that he had conducted a site inspection on June 21, 2011. Mr. Cross's affidavit detailed the activities he observed off of North Road, including: the installation of a concrete foundation; the construction of an access road; the installation of sap collection pipelines; and "logging operations, consisting of selective cutting to thin out the forest to provide more room for maple trees to populate." The June 30 filing also included a copy of an affidavit from Mr. Harrison, originally filed on April 8, 2011, stating that the improvements for the maple sugaring operation are located in a different area of the property than the proposed access road for the wind project.

On August 17, 2011, Board Members James Volz and John D. Burke conducted a site visit to view the activities that had occurred off of North Road. Advance notice of the site visit was provided to the parties, a number of whom attended the site visit.

On August 18, 2011, the Clerk of the Board issued a memorandum requesting that any comments regarding the site visit and any filings related to such activities be submitted by August 29, 2011.

On August 17, 2011, Ms. FitzGerald filed comments with the Board via e-mail reiterating her conviction that GMCW's work in relation to its sugaring operation was a facade for the commencement of construction of the Project.

On August 24, 2011, GMCW filed a letter and two e-mails detailing the permit exemption rulings associated with Georgia Mountain Maples, LLC sugaring project located on Georgia Mountain off of North Road.

On August 29, 2011, Melodie McLane filed comments with the Board via e-mail asking the Board to consider that the work Mr. Harrison has commenced on Georgia Mountain has been "conveniently located in [spots] where he needs to do work for the proposed wind project." Ms. McLane also requested that the Board order Mr. Harrison to "cease all construction of all projects on Georgia Mountain" and stated that GMCW "should be fined for the work he has done on access roads to the wind project, which is in direct violation of the CPG."

Based upon the observations of the Board Members made at the site visit, as well as the representations made by GMCW, the Board has concluded that the activities off of

North Road do not constitute site preparation or construction related to the wind generation facility.

The construction of an access road along an existing all terrain vehicle trail generally coincides with the area of the proposed transmission line; however, the proposed transmission line's installation does not require a large access road like the one currently being constructed and the access road does not run along the centerline of the proposed transmission line. In certain areas, the logging activity does appear to coincide with the area of the proposed transmission line, but is also within the larger areas thinned to allow maple trees to populate. The logging that occurred along the proposed transmission line did not remove all of the trees within the clearing limits of the proposed transmission line; 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 transmission line. Finally, it was evident from the e-mails provided by GMCW on August 24, detailing the permit exemption rulings associated with Georgia Mountain Maples, LLC sugaring project, and from the site visit, that Mr. Harrison intends to manage a sizeable sugaring operation on the Harrison family's property off of North Road.

The Board has previously stated in this Docket:

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.²

The Harrisons own approximately 700 acres at the project site.³ The fact that Mr. Harrison is involved with a petition to construct a wind project on a portion of the 700 acres does not prevent him from utilizing areas of his property for other purposes. Based on the information provided, the Board concludes that the work on the Harrisons' property does not involve the commencement of construction of the wind generation facility and does not conflict with any requirements in the CPG.⁴

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.

²Memorandum Re: Site Preparation and Construction, issued December 9, 2010; Memorandum Re: Site Preparation and construction, issued May 13, 2011.

³Harrison pf. at 2.

⁴The Board notes that the expenses associated with filing a response to Ms. FitzGerald's e-mails may have been negated by informing nearby landowners of the proposed activity before initiating construction.