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Please respond to the Portsmouth office

December 4, 2013

Via Electronic and U.S. Mail

Jane Murray, Secretary
NH Site Evaluation Committee
New Hampshire Department of Environmental
Services
29 Hazen Drive
Concord, NH 03301

Re: Application of Groton Wind, LLC
Docket No. 2010-01

Dear Ms. Murray:

Enclosed please find for filing an original and one copy of *Memorandum in Support of Revocation or Suspension of Certificate*.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

Justin C. Richardson

jrichardson@uptonhatfield.com

JCR/sem

Enclosure(s)

cc: Service List (w/ enclosure)(via electronic mail)
Mario Rampino, Jr. (w/ enclosure)

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*Also admitted in MA

BEFORE THE
STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

Docket No. 2010-01

*Application of Groton Wind, LLC for a Certificate of Site and Facility
for a Renewable Energy Facility in Groton, N.H.*

**MEMORANDUM IN SUPPORT OF
REVOCATION OR SUSPENSION OF CERTIFICATE**

NOW COMES Mario Rampino, by and through Upton & Hatfield, LLP, and submits this *Memorandum in Support of Revocation or Suspension of Certificate* as follows:

I. BACKGROUND AND SUMMARY

On November 4, 2013, Committee Chairman issued a *Procedural Order and Notice of Possible Suspension of Certificate of Site and Facility* pursuant to RSA 162-H:12, RSA 541-A:30 and RSA 541-A:31 ('Notice of Suspension'). The Notice of Suspension requests memoranda to address the following two questions:

1. Did the Department of Environmental Services have the authority to modify the Certificate regarding the placement of the O&M building and the turbines?
2. Does the Office of the State Fire Marshal have the authority to regulate the project and does he have the authority to request suspension of the certificate in the manner contained in Inspector Anstey's letter dated August 12, 2013?

Mario Rampino respectfully offers the following response:

The answer to Question 1 is "No." RSA 162-H:5, I, requires that all energy facilities be "constructed, operated and maintained in accordance with the terms of the certificate." None of the statutory provisions allowing the Committee to delegate its authority apply, and the Committee did not delegate the authority to amend its certificate to allow the complete relocation

of the maintenance building some five hundred feet and across a substantial brook from its approved location and directly adjacent to (if not on top of) Mario Rampino's residence.

The answer to Question 2 is "Yes." The State Fire Marshal has the authority to regulate the project under RSA 153:4-a ("the power to approve, disapprove, or allow exceptions to any fire safety rule"), RSA 155-A:4 ("permit required"), and other state laws. In 2009, RSA 162-H:12 was amended to make clear that: "Notwithstanding any other provision of this chapter, each of the other state agencies having jurisdiction shall retain all of its powers and duties of enforcement." Thus, the State Fire Marshal has the authority to enforce compliance with the State Fire and Building Codes.

The State Fire Marshal's failure to approve (or denial of) the project has far reaching consequences for the entire project: The State Fire Marshal is an "agency having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility". RSA 162-H:7, IV. Under RSA 162-H:16, I, "*the committee shall not issue any certificate under this chapter if any of the other state agencies denies authorization for the proposed activity over which it has jurisdiction.*" (emphasis added). A denial by the State Fire Marshal under RSA 153, RSA 155-A or other state law precludes the Committee from issuing a certificate for the entire project.

Unfortunately, based on the information provided by the Office of the State Fire Marshal, it appears that Groton Wind misrepresented to the Committee that approval by the State Fire Marshal had already been obtained, or was not required. *See e.g., August 12, 2013 Report of the Office of the State Fire Marshal, Page 2* ("Mr. Cherian's statement is not true."). In fact, the State Fire Marshal had indicated that the project could not be approved as proposed because it

did not comply with the State Building and Fire Codes which he is authorized to enforce under RSA 153, RSA 155-A and RSA 162-H:12. *See id.*

Groton Wind assumed a great risk by failing to obtain the State Fire Marshal approval as part of the RSA 162-H process. The law is clear that, if the State Fire Marshal determines that the project does not comply with the State Fire and Building codes, as it appears he has done, the Committee is bound by that determination under RSA 162-H:16, I, and must deny approval for the project and revoke or suspend its certificate pending further proceedings under RSA 162-H.

II. THE NHDES CANNOT AMEND A CERTIFICATE

A. RSA 162-H:5 Requires that a Facility shall be Constructed in Accordance with the Terms of the Certificate.

Seldom is the law so clear:

- An energy facility “*shall be constructed ... in accordance with the terms of the certificate.*” RSA 162-H:5, I (emphasis added).
- “The decision to issue a certificate in its final form or to deny an application once it has been accepted *shall be made by a majority of the full membership.*” RSA 162-H:16, II (emphasis added).
- The Committee “may not delegate authority issue certificates [or] determine the terms and conditions of a certificate”. RSA 162-H:4, III.

Simply put, only the Committee can determine the siting of an energy facility. Administrative agencies cannot change the terms of a certificate.

The use of the word “shall” in RSA 162-H:5, I & RSA 162-H:16, II, is “generally regarded as a command ... [and] is significant as indicating the intent that the statute is mandatory.” *Carleton, LLC v. Balagur*, 164 N.H. 471, 480 (2012). In context, the same is true of

RSA 162-H:4, III, which provides that the Committee “may not delegate” its authority to determine the terms and conditions of a certificate. Any other reading would “snatch ambiguity from the jaws of clarity” and should be rejected. *Appeal of AlphaDirections, Inc.*, 152 N.H. 477 (2005). Read as a whole or by its specific provisions, RSA 162-H prohibits an agency from modifying the terms of a certificate issued by the Committee.

B. Groton Wind is Bound by its Representation to the Committee as to the Location of its Operations and Maintenance Building.

Representations to the Committee by Groton Wind, LLC as to the location of its facilities are binding and define the scope of its approval. *Rye v. Ciborowski*, 111 N.H. 77, 81 (1971); *Dahar v. Department of Bldgs*, 116 N.H. 122 (1976); *1808 Corp. v. New Ipswich*, 161 N.H. 772, 775 (2011) (“[t]he scope of a variance is dependent upon the representations of the applicant and the intent of the language in the variance at the time it is issued.”); *N. Country Envtl. Servs. v. Town of Bethlehem*, 146 N.H. 348, 353 (2001). The Committee approved Groton Wind, LLC’s application based on its representation to the Committee (and abutters) that it would be constructed as proposed. An applicant like Groton Wind, LLC cannot represent that it will do one thing, then hope by trickery (*Dahar*) or by silence (*1808 Corp.*), that it will be entitled to do another in the absence of condition to the contrary.

C. The Committee Cannot Delegate the Authority to Amend Its Certificate.

The siting of an energy facility, by its nature, involves a balancing of the criteria to be considered under RSA 162-H:16. RSA 162-H:4, III prohibits the Committee from delegating the authority to “determine the terms and conditions of a certificate” to another agency. If an applicant is allowed to disregard the terms of its certificate and make material changes to its project simply by amending its approved erosion control plans, the purposes for which

RSA 162-H was were established, including its public hearing requirement, become effectively meaningless.

The Committee may delegate the authority to “specify the use of any technique, methodology, practice, or procedure *approved by the committee* within a certificate” or “specify minor changes in the route alignment” of transmission lines. RSA 162-H:4, III-a (emphasis added). However, RSA 162-H:4, III-a *requires* the Committee specifically approve the “technique, practice or procedure” in question. Obviously, the complete relocation of a facility to a new location some 500 feet away, across a brook, and adjacent to residential areas that were not present at the location approved by the Committee is not a “technique” or “procedure”. It is a *new proposal* and a *new plan* that differs substantially and materially from that presented to and approved by the Committee under RSA 162-H.

This is not to say that the Committee could not consider and approve alternative locations. It can as RSA 162-H clearly contemplates. *See e.g.* RSA 162-H:7, V (“Each application shall also ... (b) Identify both the preferred choice and *any other choices for the site of each major part of the proposed facility.*”); RSA 162-H:16, IV (“The site evaluation committee, *after having considered available alternatives...*”). However, the Committee approved construction of the operations and maintenance building in an entirely different location, without consideration of impacts to Mario Rampino’s residence, or that of others, as RSA 162-H requires.

D. The Committee Did Not In Fact Delegate Authority to Relocate the Operations and Maintenance Building.

As noted above, RSA 162-H prohibits the Committee from delegating the authority amend the terms and conditions of a certificate. In addition, the Committee’s Transcript of April

11, 2011, Pages 88 to 90, shows that the Committee did not *in fact* delegate any such authority.

The Committee discussed its authority under RSA 162-H:4, III & III-a and approved a motion as follows:

Mr. IACOPINO: Delegate the authority to monitor the construction and operation of the facility and to specify any **changes that may be necessary under the permits** and the use of any technique or methodology required by the State agencies.

DIR. SCOTT: So moved with that language.

CHAIRMAN GETZ: Do we have a second?

DR. KENT: Second.

CHAIRMAN GETZ: Second by Dr. Kent. All 14 those in favor, signify by raising their hands?

(Subcommittee members indicating by a show of hands.)

CHAIRMAN GETZ: Note that it passes unanimously.¹

The Committee's motion does not suggest any intent to delegate the authority to approve any changes to the *certificate*, such as relocation of facilities to entirely new areas that had not been evaluated by the Committee. The Committee understood that it could not do so under RSA 162-H:4, III & III-a, and delegated only limited authority to specify changes to "*necessary under the permits*" i.e. minor or technical changes within the agency's permit authority. There is no suggestion that an agency could approve material changes to facilities in new residential areas. An agency simply cannot amend a certificate. RSA 162-H:4, III.

The limited nature of the Committee's authority to delegate approval of changes to the project is also confirmed by Groton Wind, LLC's own testimony before the Committee. The Transcript reveals that on, November 2, 2010, Morning Session, Day 2, Pages 102-103, Mark Devlin of Iberdrola testified as follows for Groton Wind, LLC:

[BY MS. GEIGER:]

Q. Okay. And, I believe in response to questions from Mr. Hood, you indicated that, **if there were going to be any changes in the future to the Project, that you would undertake another evaluation of all of the project's impacts or the**

¹ Transcript of April 11, 2011, Page 90 (emphasis added).

impacts that those changes had on things like the environment. Do you remember that question?

A. Yes.

Q. Okay. Is it your understanding that that would be required under New Hampshire law?

A. Well, my understanding is, if there were changes to the dimensions of the site or if we, for example, were using a different size of wind turbine, we might have to go back and get a re-permit.

Q. But, if you were installing just say **the same type turbine in the same location**, if you needed to replace the turbine or a blade, would you --

A. No, we wouldn't need to re-permit it then.

MS. GEIGER: Okay. Thank you.

CHAIRMAN GETZ: **That's his opinion as to the state of the law?**

MS. GEIGER: **Correct.**

CHAIRMAN GETZ: Okay. Thank you.

(emphasis added).

The above testimony makes clear that Groton Wind, LLC understood that if it changed the “dimensions of the site” or to different locations, the project would be required ‘re-permit’ its facility as part of the RSA 162-H process before the Committee. Using Groton Wind, LLC’s own example, an agency could not ‘re-permit’ a change to the turbines, their size, capacity or location. That is in the nature of a land use approval exclusively within the Committee’s purview, unless exempted under RSA 162-H:4, IV. The size and location of turbines, or an operations and maintenance building, are all the subject of the certificate, not merely details to be specified on an erosion control plan.

Certainly, the relocation of the Operations and Maintenance Building requires changes to the permits issued by the NHDES. However, RSA 162-H requires that the terms and conditions of a certificate be determined by the Committee, not an agency. RSA 162-H:4. The NHDES Alteration of Terrain and Wetlands permits are not land use or “use” approvals in any sense.

They are simply permits that govern particular erosion control practices or water quality impacts (RSA 485-A:17; Env-Wq 1500) or wetlands impacts (RSA 482-A; Env-Wt 100).²

Groton Wind, LLC cannot bypass the land use protections afforded by RSA 162-H:16, IV (or by local zoning) by simply amending its erosion control plans after the Committee has approved the project. To do so would violate RSA 162-H:4, III, which requires that the Committee determine the terms and conditions of a certificate after a comprehensive hearing and permit process intended to “ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning *in which all environmental, economic, and technical issues are resolved in an integrated fashion*”. RSA 162-H:1 (emphasis added).

E. A Change to a Facility that does not Receive Certificate Approval is Subject to Local Zoning under RSA 162-H:16, II.

If the Committee issues a certificate, it becomes “conclusive” on questions of siting. RSA 162-H:16, II. Upon approval of a certificate, the facility shall be constructed in accordance with its terms. RSA 162-H:5, I. If the Committee has not approved a certificate for the facility in question, then there is no “conclusive” effect or exemption from land use controls under RSA 162-H:16, II. Such a determination can only be made by the Committee under RSA 162-H:4, IV.

Groton Wind cannot have it both ways: if it has a certificate, then its project shall be constructed “in accordance with the terms of the certificate.” RSA 162-H:5, I. If it does not

² In fact, the NHDES Alteration of Terrain notices provided to Towns pursuant to RSA 541-A:39 typically contain the following statement that the NHDES is not authorized to consider planning and zoning issues under RSA 485-A:17 and Env-Wq 1500: “**Please note that under current state law and regulations the program is not authorized to consider local planning and zoning issues, which must be considered at the local level.**” It is unclear what notice, if any, the NHDES provided for the amendment.

obtain a certificate for its project (or “sizeable changes or additions”)³ then its project is subject to local zoning. That means the project must comply with the local zoning ordinance (RSA 674:16) and obtain site plan approval (RSA 674:43-44). The hearing and approval process under RSA 162-H would be pointless if an applicant could simply change material terms of its approval after the fact, and thereby avoid review by *both* the Committee and municipal land use boards. Groton Wind, LLC’s approach to the construction of its operations and maintenance building is precisely the opposite of what RSA 162-H requires.

F. NHDES’s Approval of the Maintenance Building is Void under RSA 162-H.

Under New Hampshire law, a “necessary prerequisite to a [board’s] jurisdiction to consider a request ... is that any statutory notice procedure be satisfied”. *Hussey v. Barrington*, 135 N.H. 227, 231 (1992) (zoning boards). A state agency, like a zoning board, must comply with statutory notice and hearing requirements. *See e.g. Appeal of Union Tel. Co.*, 160 N.H. 309, 323 (2010) (remand due to “statutory right, to prior notice and a hearing”). In both the *Hussey* and *Union Tel. Co.*, cases, the Supreme Court vacated the decisions because the statutory notice had not been provided.

In this case, RSA 162-H requires that agency permits be issued only as part of the Committee’s approval process. *See* RSA 162-H:6-a, V-VII; RSA 162-H:7, VI-b & c. That process requires notice and one or more public hearings before the Committee. *Id.* However, the Committee has not held public hearings for the changes to the project as required by RSA 162-H. *See* RSA 162-H:6-a, IV (“... at least one public hearing in each county in which the proposed facility is to be located.”); RSA 162-H:6-a, VII (“... the subcommittee shall hold a public hearing on the merits of the application, which shall be part of an adjudicative proceeding

³ RSA 162-H:5, I.

as provided under RSA 162-H:10, II.”); RSA 162-H:10. Under RSA 162-H:4, the Committee “may not delegate authority to hold hearings” which, under RSA 162-H:10, I, “shall be in lieu of all hearings otherwise required by any of the other state agencies.” Because the NHDES approved material changes to the facility without the statutory notice and hearings required by RSA 162-H, its approval is void as explained by the Supreme Court in the *Hussey* and *Union Tel. Co.* cases.

G. The NHDES Failed to Provide Notice and a Public Hearing as Required by RSA 147-A.

In addition, it *appears* that the NHDES did not follow its own statutory notice and hearing requirements for approval of the operations and maintenance building as a hazardous waste facility. For example, on October 11, 2013, Groton Wind, LLC filed an *Environmental Health and Safety Plan* that shows it is to be used for “management of hazardous substances” (Page 2 of 12) and “includes the location of items such as oil storage, flammable material storage, emergency response equipment, *hazardous waste and universal waste storage areas.*” (Page 3 of 12) (emphasis added); *see also* Appendix B. According to records obtained from the NHDES’s One-step Database (attached), the NHDES approved a hazardous waste facility at this location on October 14, 2013, while this proceeding was pending.

A hazardous waste storage facility is defined by RSA 147-A:2, IV as any “location at which hazardous waste is subjected to treatment, *storage* or disposal”. (emphasis added). By law, the NHDES is required to provide notice and a public hearing under RSA 147-A:4-a, II, which provides that:

The board shall review permit applications for new hazardous waste facilities received by the department under RSA 147-A:4, I. These permit applications shall apply to treatment, storage, and disposal facilities. [...] **The board shall hold a minimum of 2 public hearings on the application, which shall be held in the**

town which is the proposed site of the facility. The first hearing shall provide the applicant an opportunity to describe and explain the proposed facility's operation. The second hearing shall provide the public an opportunity for comment and questions. Notice of the hearings shall be posted at least 7 days before the hearing date. If the board approves the siting of the facility, the department shall review the application for conformity with requirements of rules adopted pursuant to RSA 147-A in order to issue or deny a permit.

The One-Stop records also indicate that the NHDES approval (or transfer) was issued to an entity: GAMESA WIND US. According to records of the NH Secretary of State (attached): Gamesa Wind US is a Delaware corporation established in 2003, but was not registered to do business in New Hampshire until October 10, 2013! Groton Wind, LLC did not obtain approval from the Committee for Gamesa Wind US to hold permits on behalf of Groton Wind, LLC.⁴ *cf.* RSA 162-H:5, I (“Such a certificate shall not be transferred or assigned without approval of the committee.”); RSA 162-H:8 (“Disclosure of Ownership”). Furthermore, the transfer of a hazardous waste facility under RSA 147-A:4, III-a, *specifically requires notice to abutters!* Mario Rampino was not provided with such a notice.

Mr. Rampino is an abutter to the facility and directly affected by the siting of a hazardous waste facility adjacent to his home. He has already had his drinking water well contaminated by Groton Wind, LLC’s failure to control runoff from its unauthorized construction of its operations and maintenance building, that the NHDES appears to have approved without public notice or public hearings as required by RSA 147-A:4-a, II (new approvals) or RSA 147-A:4, IV-a (transfers). As noted above, approvals without the required statutory notice and public hearing are void under *Hussey v. Barrington*, 135 N.H. 227, 231 (1992) and *Appeal of Union Tel. Co.*,

⁴ There is some reason to believe that Gamesa Wind US may be using Groton Wind, LLC’s operations and maintenance building to store hazardous waste for both the Iberdrola’s Lempster facility as no hazardous waste manifests appear to have been reported for Lempster subsequent to October 14, 2013. This should be further investigated by the Committee or by the Attorney General.

160 N.H. 309, 323 (2010). The Committee should, at a minimum, order the removal of all hazardous wastes from the facility and revoke or suspend the NHDES's approval of the building, pending further proceedings pursuant to RSA 162-H.

III. THE STATE FIRE MARSHAL HAS THE AUTHORITY TO ENFORCE THE STATE BUILDING AND FIRE CODES

A. RSA 162-H Preserves the State Fire Marshal's Authority.

The Committee's decision to issue or deny a certificate is "conclusive on all questions of siting, land use, air and water quality." RSA 162-H:16, II. Public safety is notably absent from the list. Energy facilities can be particularly dangerous due to the presence of significant fire and electrical risks, fuels, and chemicals. If the Legislature had intended to make the Committee's determination *conclusive* as to public safety, it failed to clearly state so.

In 2009, the Legislature amended RSA 162-H to expressly provide that:

"Notwithstanding any other provision of this chapter, each of the other state agencies having jurisdiction shall retain all of its powers and duties of enforcement." RSA 162-H:12, IV (emphasis added). As a result, the Committee has the authority to "enforce a certificate". RSA 162-H:4, III. However, the State Fire Marshal retains all of his statutory enforcement authority. RSA 162-H simply operates as an additional mechanism to enforce a certificate that does not replace or set aside the power of a state agency or official to enforce laws within its jurisdiction. In fact, the Committee cannot approve a project if a state agency or official "denies authorization for the proposed activity over which it has jurisdiction." RSA 162-H:16, I. While a certificate may trump municipal land use codes, it does not and cannot preclude or limit the State Fire Marshal's authority to enforce the State's Fire and Building Codes to protect public safety.

B. The State Fire Marshal Has the Authority to Regulate the Project.

Under RSA 155-A:2, I, “All buildings, building components, and structures constructed in New Hampshire shall comply with the state building code and state fire code.” A permit is required under RSA 155-A:4, I, which requires that: “*Before starting new construction ... the person responsible for such construction shall obtain a permit.*” (emphasis added). RSA 155-A:4 provides for the permit to be issued at the local level, RSA 155-A:4, II, or by the State Fire Marshal, RSA 155-A:4, III. Fire permits, governed by RSA 153, use the same approach. See RSA 153:4-a (“The state fire marshal shall have the power to approve, disapprove, or allow exceptions to any fire safety rule of any state agency”); RSA 153:8-a.

Under RSA 153 and RSA 155-A, it is simply unlawful to construct any building without a building and fire safety permit. If the project is exempt from building and fire safety regulation at the local level, the project must obtain a permit at the state level. RSA 155-A:2, X (“No state agency, authority, board, or commission shall vary, modify, or waive the requirements of the state building code or state fire code, unless approved by the state building code review board pursuant to RSA 155-A relative to the state building code or the state fire marshal pursuant to RSA 153:8-a, I(c) for the state fire code.”); RSA 155-A:4-a, I (“The state fire marshal shall have the power to approve, disapprove, or allow exceptions to any fire safety rule of any state agency”); RSA 155-A:7, I.

C. The Committee Cannot Approve A Project That The State Fire Marshal Determines Does Not Comply with the State Building and Fire Codes.

The State Fire Marshal’s determination that the project does not comply with the State Fire and Building Codes has far reaching consequences that relate to the entire project. The State Fire Marshal’s Office is an “agency having jurisdiction, under state or federal law, to

regulate any aspect of the construction or operation of the proposed facility”. RSA 162-H:7, IV. Under RSA 162-H:16, I, “*the committee shall not issue any certificate under this chapter if any of the other state agencies denies authorization for the proposed activity over which it has jurisdiction.*” (emphasis added). This means that the State Fire Marshal determination under RSA 153, RSA 155-A or other state law operates as a denial of the certificate issued by the Committee.

The State Fire Marshal has indicated that Groton Wind misrepresented to the Committee that approval by the State Fire Marshal had already been obtained, or was not required when the project does not comply with the State Fire and/or Building Codes which he is authorized to enforce under RSA 153, RSA 155-A and RSA 162-H:12. See August 12, 2013 *Report of the Office of the State Fire Marshal*, Page 2 (“Mr. Cherian’s statement is not true.”). Groton Wind assumed a great risk by failing to obtain the State Fire Marshal approval as part of the RSA 162-H process as the law is clear that, if the State Fire Marshal determines that the project does not comply with the State Fire and Building codes, the Committee is bound by that determination under RSA 162-H:16, I, and must deny approval for the project and revoke or suspend its certificate pending further proceedings under RSA 162-H.

IV. CONCLUSION

Mario Rampino has been substantially harmed by Groton Wind, LLC’s disregard for the laws of the State. He requests that the Committee revoke or suspend Groton Wind, LLC’s petition pending the review process required by RSA 162-H. Any decision or order which allows Groton Wind, LLC to disregard the requirements of its certificate and RSA 162-H as it has done would: (a) unjustly reward Groton Wind, LLC for its non-compliance with the law; (b)

unjustly punish Mario Rampino; and (c) invite other applicants to similarly disregards the application, public hearing and certificate requirements clearly set forth in RSA 162-H.

Respectfully submitted,

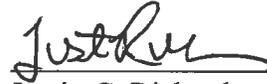
MARIO RAMPINO

By His Counsel,

UPTON & HATFIELD, LLP

Date: December 4, 2013

By:



Justin C. Richardson (NHBA 12148)
159 Middle Street
Portsmouth, New Hampshire 03801
(603) 436-7046
jrichardson@uptonhatfield.com

CERTIFICATION

I hereby certify that a copy of the foregoing was this day forwarded to all persons on the Committee's Service List in this proceeding.



Justin C. Richardson

Hazardous Waste Generator Report

EPA Id: NHD510212780

Handler Id: 0058661

Current Name and Address: GAMESA WIND US
580 GROTON HOLLOW RD
RUMNEY

Contact Information: GEOFF SCHMIDT
590 GROTON HOLLOW RD
RUMNEY NH 03266

MapIt

215-710-3303

Effective Date: 10/14/2013

Current Status: ACTIVE

Generator Size: SQG(CESQG)

Owner:

State of New Hampshire

Filing fee: \$ 50.00
Fee for Form SRA: \$ 50.00
Total fees: \$100.00
Use black print or type.

Form FLLC-1
RSA 304-C:175

APPLICATION FOR REGISTRATION AS A FOREIGN LIMITED LIABILITY COMPANY

PURSUANT TO THE PROVISIONS of the New Hampshire Limited Liability Company laws, the undersigned hereby applies for registration to transact business in New Hampshire and for that purpose submits the following statement:

FIRST: The name of the limited liability company is GAMESA WIND US, LLC

SECOND: The name which it proposes to register and do business in New Hampshire is GAMESA WIND US, LLC

THIRD: It is formed under the laws of DELAWARE.

FOURTH: The date of its formation is August 4, 2003.

FIFTH: The nature of the business or purposes to be conducted or promoted in New Hampshire is WIND TURBINE SALES AND SERVICES.

SIXTH: The name of its registered agent in New Hampshire is National Registered Agents, Inc.

and the **street address**, town/city (including zip code and post office box, if any) of its registered office is (agent's business address in New Hampshire) 9 Capitol Street, Concord, NH 03301

SEVENTH: The sale or offer for sale of any ownership interests in this business will comply with the requirements of the New Hampshire Uniform Securities Act (RSA 421-B).



APPLICATION FOR REGISTRATION AS A
FOREIGN LIMITED LIABILITY COMPANY

Form FLLC-1
(Cont.)

*Signature: 

Print or type name: DAVID FITTERMAN

Title: CHAIRMAN, NORTH AVENUE
Branch

Date signed: 10/10/13

*Legal
FAF*

Complete address of person signing: 1150 WORTHBROOK DRIVE, SUITE 150
FEASTERVILLE TREJOSE, PA
19053-8409

To receive your ANNUAL REPORT REMINDER NOTICE by email, please enter your email address here:

* Shall be executed on behalf of the foreign limited liability company by a person with authority to do so under the laws of the state or other jurisdiction of its formation, or, if the foreign limited liability company is in the hands of a receiver, executor, or other court appointed fiduciary, trustee, or other fiduciary, it must be signed by that fiduciary.

DISCLAIMER: All documents filed with the Corporation Division become public records and will be available for public inspection in either tangible or electronic form.

Mail fees, **DATED AND SIGNED ORIGINAL AND FORM SRA** to: Corporation Division, Department of State, 107 North Main Street, Concord NH 03301-4989. Physical location: 25 Capitol Street, 3rd Floor, Concord, NH 03301.

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "GAMESA WIND US, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE THIRD DAY OF OCTOBER, A.D. 2013.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "GAMESA WIND US, LLC" WAS FORMED ON THE FOURTH DAY OF AUGUST, A.D. 2003.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN PAID TO DATE.

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Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 0787914

DATE: 10-03-13

**Form SRA – Addendum to Business Organization and Registration Forms
Statement of Compliance with New Hampshire Securities Laws**

Part I – Business Identification and Contact Information

Business Name: GAMESA WIND US, LLC
 Business Address (include city, state, zip): 1150 NORTHBROOK DRIVE, SUITE 150
FEASTERVILLE TREVOSE, PA 19053 - 8409
 Telephone Number: 215-710-3100 E-mail: _____
 Contact Person: David Flitlerman
 Contact Person Address (if different): _____

Part II – Check ONE of the following items in Part II. If more than one item is checked, the form will be rejected. [PLEASE NOTE: Most small businesses registering in New Hampshire qualify for the exemption in Part II, Item 1 below. However, you must insure that your business meets all of the requirements spelled out in A), B), and C)]:

1. _____ Ownership interests in this business are exempt from the registration requirements of the state of New Hampshire because the business meets ALL of the following three requirements:
 - A) This business has **10 or fewer owners**; and
 - B) Advertising **relating to the sale of ownership interests** has not been circulated; and
 - C) Sales of ownership interests – if any – will be **completed within 60 days** of the formation of this business.
2. _____ This business will offer securities in New Hampshire under another exemption from registration or will notice file for federal covered securities. Enter the citation for the exemption or notice filing claimed - _____
3. _____ This business has registered or will register its securities for sale in New Hampshire. Enter the date the registration statement was or will be filed with the Bureau of Securities Regulation - _____
4. This business was formed in a state other than New Hampshire and will not offer or sell securities in New Hampshire.

Part III – Check ONE of the following items in Part III:

1. This business **is not being** formed in New Hampshire.
2. _____ This business **is being** formed in New Hampshire and the registration document states that any sale or offer for sale of ownership interests in the business will comply with the requirements of the New Hampshire Uniform Securities Act.

Part IV – Certification of Accuracy

(NOTE: The information in Part IV must be certified by: 1) all of the incorporators of a corporation to be formed; or 2) an executive officer of an existing corporation; or 3) all of the general partners or intended general partners of a limited partnership; or 4) one or more authorized members or managers of a limited liability company; or 5) one or more authorized partners of a registered limited liability partnership or foreign registered limited liability partnership.)

I (We) certify that the information provided in this form is true and complete. (Original signatures only)

Name (print): DAVID FLITLERMAN, Signature: [Signature]
Chairman, North America Date signed: 10/10/13
Branch
 Name (print): _____ Signature: _____
 Date signed: _____
 Name (print): _____ Signature: _____
 Date signed: _____

*OK legal
FAF*