

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

February 26, 2014

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

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

Dear Ms. Murray:

Enclosed please find the original and one copy of the Fire Marshal's Partially Assented-To Motion to Modify the Procedural Order Dated February 20, 2014 for filing in the above-captioned case.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary C. Evans".

Mary C. Evans
Legal Assistant
Transportation & Construction Bureau
(603) 271-3675

mce
Enclosure
cc: Service List (electronic mail only)
1008113

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

Docket No. 2010-01

Application of Groton Wind, LLC for a Certificate of Site and Facility

**PARTIALLY ASSENTED-TO MOTION TO MODIFY THE
PROCEDURAL ORDER DATED FEBRUARY 20, 2014**

NOW COMES the State of New Hampshire, Department of Safety (“the Department”), Office of the Fire Marshal (“Fire Marshal”), by and through its attorneys, the Office of the Attorney General, and respectfully moves that the New Hampshire Site Evaluation Committee (“the Committee”) modify its Procedural Order dated February 20, 2014 to consolidate the Fire Marshal issues with all other issues before the Committee so that the Fire Marshal will follow the same procedure and participate in the hearing established for all other parties in the above-captioned matter. In support of this Motion, the Fire Marshal says as follows:

1. By way of background, it is the practice of the Fire Marshal to work in conjunction and cooperation with other regulatory agencies. For that reason, and because the Committee conditioned the Applicant’s Certificate on compliance with the fire, safety, and building codes, the Fire Marshal informed the Committee of the Applicant’s failure to comply with the codes and of the misrepresentation to the Committee related to the Fire Marshal’s position on enforcement.

2. It remains the Fire Marshal’s intention that the Committee be fully informed of all issues and actions related to the site that are within the jurisdiction of the Fire Marshal. In addition, it is the Fire Marshal’s intention to work in conjunction with the Committee to the extent possible. That said, the Fire Marshal retains its independent statutory enforcement

authority and, as represented at the pre-hearing conference, because of the serious safety issues present here, will take independent action to shut down the site if compliance is not achieved by the first class three fire danger day as determined by the New Hampshire Division of Forests and Lands.

3. A prehearing conference was held on this matter on January 30, 2014. During the conference, a limited and expedited procedure and schedule was contemplated for the issues related to the Fire Marshal in the hopes that a hearing before the Committee could be held and a decision made before the anticipated start of fire season.

4. A Procedural Order was subsequently issued establishing a hearing date for the issues related to the Fire Marshal on June 12, 2014. While the Fire Marshal sincerely appreciates the Committee's efforts to prioritize the serious safety issues raised by the Fire Marshal, the hearing on June 12, 2014 will fall well beyond the anticipated start of fire season. Without the benefit of a hearing before the start of fire season, the expedited procedures established for the Fire Marshal, which provide the Fire Marshal with a more limited and expedited discovery process than all other parties, are not warranted.

5. A good faith effort was made to obtain concurrence with the relief sought in this Motion from all the parties. As of the time this Motion was finalized, the following parties have indicated their positions: Counsel to the Public, Groton Wind, LLC, the Buttolph/Lewis/Spring Intervenor Group, and the North Country Council concur with the relief requested; and no other party has responded.

WHEREFORE, the Department respectfully requests that the Committee:

- A. Modify the Procedural Order to establish the same discovery procedures and hearing date for the Fire Marshal as established for all other parties; and

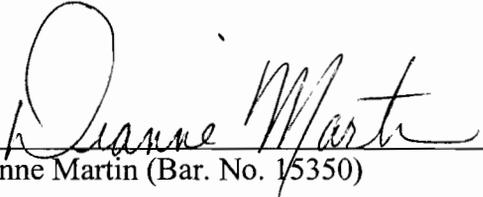
B. Grant such further relief as it deems appropriate.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY

By its attorneys,
ANN M. RICE
DEPUTY ATTORNEY GENERAL

February 26, 2014


Dianne Martin (Bar. No. 15350)
Attorney
Transportation & Construction Bureau
33 Capitol Street
Concord, New Hampshire 03301-6397
(603) 271-3675

Certificate of Service

I certify that a copy of the foregoing has, on this 26th day of February, 2014, been electronically mailed to the parties on the service list.


Dianne Martin