

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

Concerning an Application for a Certificate of Site and Facility  
Antrim Wind Energy LLC  
Docket No. 2012-01

**OBJECTION OF THREE INTERVENOR GROUPS**

Edwards-Allen Joint Intervenors  
North Branch Resident Intervenors  
Abutters' Group Intervenors

**to**

**ANTRIM LANDOWNERS' MOTION FOR REHEARING**

Three Intervenor groupings, as recognized by the New Hampshire Site Evaluation Committee in SEC Docket 2012-01, jointly submit this objection to the Antrim Landowners' Motion for Rehearing. The Intervenors joining in this action are all residents and voters in the Town of Antrim and are described as follows:

1. Edwards-Allen Joint Intervenors: (Robert L. Edwards and Mary E. Allen)
2. North Branch Resident Intervenors: (Richard and Lorraine Carey Block; Annie Law; Robert A. Cleland; Elsa Voelcker; James Hankard; Samuel E. and Michele D. Apkarian)
3. Abutter's Group Intervenors (Janice Longgood; Mark J., Brenda and Nathan Schaefer; Clark Craig Jr.)

The Intervenors, so described, argue that the Antrim Landowners' Motion for Rehearing should be denied for these reasons: (1) The Landowners' motion does not present new facts or arguments; (2) The Landowners made no effort prior to this motion to materially participate in the hearing process; (3) The Landowners' motion errs in its statements of the rights of said landowners; (4) The Landowners'

motion overestimates the value of the proposed conservation easements; and (5) The Landowners' motion errs in its description of the deliberation of the SEC and in its interpretation of the decision of the SEC.

### **Argument**

**1) The Landowners' motion does not present any new facts or arguments, and does not include any additional information not presented during testimony before the Site Evaluation Committee or during the Committee's deliberations.**

Each point raised by the Landowners in their motion was conscientiously considered by the Site Evaluation Committee. There are no grounds to warrant a rehearing or reconsideration.

Since the Landowners did not materially participate in any aspect of the SEC process, they did not present any information at the hearings.

**(2) The Landowners made no effort prior to this motion to materially participate in the hearing process.**

At no point in the SEC hearings did any of the Landowners participate as Intervenors or concerned parties. Although there were ample opportunities for the Landowners to become involved, none of them made any attempt to do so, and thus their standing as participants at this stage is questionable. Additionally, the non-participation of the Landowners did not allow other parties in the proceedings the opportunity for discovery, interrogation, or cross-examination.

It can be inferred that the Landowners' lack of participation at any level of the SEC hearings was due to their assumption that the applicant was looking out for their

interests and therefore they assigned their rights to AWE. Notwithstanding RSA 541:3, the Landowners thus have relinquished any right to appeal.

**(3) The Landowners' motion errs in its statements of the rights of said landowners.**

Page 1 of the Landowners' Motion states: "The Subcommittee's Decision deprives the Antrim Landowners of the freedom to use our property as we wish, as well as the ability to receive the benefits of the leases that we have negotiated with AWE."

All the Landowners entered into agreements with AWE with the full knowledge that those agreements were contingent upon the approval of AWE's application with the SEC. Those contracts were signed (prematurely, it may be argued) at their own risk, as was any timber clearing activities conducted in preparation for turbine and road construction. The Landowners are solely responsible for their own predicament.

The Landowners were also aware from the time they acquired their property that they were subject to the laws and regulations set forth in Antrim's Zoning Ordinance, and as such, can not use their property as they wish unless those uses are in compliance with the limitations set forth for the Rural Conservation District in the Zoning Ordinance. This Ordinance gives the Landowners certain rights for use and development of their property. These rights were in place before AWE applied to the SEC for their industrial wind project, and they remain in place now that AWE has been denied a Certificate. The decision of the SEC has not deprived the Landowners of any of these rights.

**(4) The Landowners' motion overestimates the value of the proposed conservation easements.**

In their motion, the Landowners refer to what they call the “substantial conservation measures” proposed by AWE. However, when viewed in the context of the considerable negative impact of the proposed project over a wide area, the conservation easements offered by this project are inadequate and self-serving. Throughout the deliberations it was repeatedly pointed out that the proposed easements would not be adequate mitigation for the aesthetic impact of the project. Additionally, the purpose of the proposed easements is to further the possibility of achieving project permitting rather than the goal of preserving land. This intent was corroborated in a letter from Paul J Whittemore to the SEC dated February 6, 2013 which states, “I want to share with you the fact that through the process, we did not support the idea of putting our land into a conservation easement... that limitation was and will continue to bother me. In an effort to allow you to approve the Ten Wind Turbine Project, my Mother and I agreed to put the 123 acres into conservation with limitation of buildings on the ridge.”

The Landowner’s Motion warns, “In addition, without the Project and its conservation measures, the Landowners would have the ability to use our property in ways that could have aesthetically displeasing results without the high level of corresponding benefit provided by the Project.” As stated previously, the Landowners are subject to the very same restrictions for property usage as every other landowner in the Rural Conservation District. During the deliberations, Mr. Simpkins discussed this:

“As far as what could happen on the ridge top, I think that’s a valid point. But also, I don’t see, you know, the entire ridge top becoming a sea of houses, because they’d have to go through local planning. And I think we’ve heard a lot from the towns here, the select board, the planning board, the conservation commission. You know, they’ve been planning for decades. I think they have a very good system down. So I don’t think it would be something where all of a sudden you’re going to see unlimited building, because it would still have to go through subdivision and all the other town processes. And, you know, they would look at that as far what’s appropriate. Also, even with houses, they’re most likely not going to be 500 feet tall.”  
*[Transcript of Deliberations; Day Three Afternoon, pages 35-36]*

**(5) The Landowners’ motion errs in its description of the deliberation of the SEC and in its interpretation of the decision of the SEC.**

The Motion states: “The Subcommittee’s decision that the AWE project would have an unreasonable adverse affect [sic] on aesthetics of the region seems to have been heavily influenced by only one landowner — the New Hampshire Audubon.”

Throughout the deliberations, numerous statements were made that the SEC’s concerns for aesthetic impact of the proposed project carried far beyond just Audubon’s Willard Pond Sanctuary. Chairman Ignatius stated, “Willard Pond was one of the areas discussed by some Committee members, but not the only area. And I think it’s important that as we think about whether there’s anything that could be done as a condition, that we not lose sight of the fact that it isn’t just Willard Pond...” *[Transcript of Deliberations; Day Three Afternoon, page 16.]* Dr. Boisvert added, “I look at it not just from Willard Pond, but from the other directions, literally. It’s going to be seen from a lot of places. And mitigating it from one direction wouldn’t necessarily mitigate it from the others. And I’m not quite sure I’m ready to say one view or one area is more important than another...” *[Transcript of Deliberations; Day Three Afternoon, page 20-21.]* Chairman Ignatius continued with:

“Here, just because of the way the ridges are and the way the community development is, it seems like you’ve got some key locations that are part of the heart of Antrim that are very much affected. You’ve got the Willard Pond that we’ve talked about quite a lot that’s a very special place within the people of Antrim, held dearly, but also within the region. And you have things like Gregg Lake, that’s sort of a community gathering/recreation area, you know, picnicking and swimming and boating and town soccer fields and all that sort of thing. And those towers just are going to ring around and hang over that area.” *[Transcript of Deliberations; Day Three Afternoon, page 22]*

## **Conclusion**

For all of these reasons and because the Landowners have not demonstrated cause for a rehearing, their Motion should be denied.

WHEREFORE, the Edwards-Allen Joint Intervenors, the North Branch Resident Intervenors, and the Abutters' Group Intervenors respectfully request that the Committee deny the Antrim Landowners' Motion for Rehearing.

Respectfully submitted,

Dated: June 3, 2013



Robert L. Edwards, Joint Intervenor with Allen



Mary E. Allen, Joint Intervenor with Edwards



Richard Block  
spokesperson for North Branch Resident Intervenors



Janice Longgood  
spokesperson for Abutters' Group Intervenors

**Certificate of Service**

I, Richard Block, certify that on June 3, 2013, I served a copy of the foregoing on the Parties and Intervenors, as identified on the official service list, by electronic mail.

A handwritten signature in black ink, appearing to be 'Richard Block', written over a horizontal line.

Richard Block