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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE
APPLICATION OF ANTRIM WIND ENERGY, LLC
NO. 2012-01

CLOSING MEMORANDUM AND PROPOSED CONDITIONS

Antrim Conservation Commission (ACC) hereby presents this Closing Memorandum and Proposed Conditions to the Application of Antrim Wind Energy, LLC (the Applicant) for a certificate of site and facility. The ACC is on record of being neither for nor against the project. The following brief was reviewed and unanimously accepted by the Antrim Conservation Commission at its January 14, 2013 meeting.

Pursuant to RSA 162-H: 16

IV. The site evaluation committee, after having considered available alternatives and fully reviewed the environmental impact of the site or route, and other relevant factors bearing on whether the objectives of this chapter would be best served by the issuance of the certificate, must find that the site and facility:

- (a) Applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.**

1 **(b) Will not unduly interfere with the orderly development of the region with**
2 **due consideration having been given to the views of municipal and regional**
3 **planning commissions and municipal governing bodies.**

4 **(c) Will not have an unreasonable adverse effect on aesthetics, historic sites, air**
5 **and water quality, the natural environment, and public health and safety.**

6
7 The Antrim Conservation Commission brief will address four aspects of RSA 162 H for
8 the committee's deliberation. These are:

- 9 • Consideration of Alternatives
- 10 • Orderly Development of the Region
- 11 • Aesthetics
- 12 • Natural environment

13
14 Consideration of Alternatives

15 The applicant has provided unconvincing testimony on the consideration of alternative
16 design for the road and turbine placement or height. The application section H.2 and
17 H.2a are written text of alternative project aspects. There are no comparison tables,
18 drawings, engineering plans or other graphic exhibits for the SEC to consider.

19 Furthermore, there is no evidence to show the reasons why the alternatives considered
20 were inappropriate alternatives (AWE exhibit 1 vol. 1 page 51)

21
22 Two of the applicant's consultants did not consider alternatives in their reports and when
23 asked if they considered alternatives they responded that they did not consider

1 alternatives or it was beyond the scope of their services. (Transcript day 4 page 67 at 24-
2 page 68 at 11; Transcript day 5 page 98 at 13 -100 at 5).

3

4 Orderly Development of the Region

5 The ACC offers three areas for the SEC to consider regarding the orderly development of
6 the region. These are the regional efforts for land conservation and protection, Town of
7 Antrim voter adopted land use policies, and the applicant's study on this topic.

8

9 *1. Regional efforts for land conservation and protection*

10 Significant land conservation efforts have occurred in the Towns of Stoddard,
11 Hancock, Nelson, Windsor, Deering, Greenfield, Bennington, and Francetown.
12 These efforts have contributed to the occurrence of the conserved lands known as
13 the Super Sanctuary and is incorporated in the Quabbin to Cardigan Initiative.
14 (ACC exhibit 2 page 4 at 20-page 5 at 2, table at 7; ACC exhibit 4; Transcript day
15 8 page 127 at 6 –page 140 at 14). These are evidence that land conservation and
16 protection are strong components of the orderly development of the region.

17

18 *2. Town of Antrim voter adopted land use policies*

19 The citizens of Antrim have consistently voted in a series of Town Meeting and
20 ballot votes provided for the orderly development of the heavily forested western
21 section of Antrim by designating that section of Antrim between the Stoddard and
22 Windsor town line (not in the highway business district to be to for conservation.
23 The enactment of the Rural Conservation District in March 1989, its expansion

1 occurred in March 1990. The Open Space Conservation Plan (OSCP) was adopted
2 by vote at Town Meeting in March 2006. Additionally, citizens voted for a steep
3 slope and wetland zoning overlays to limit development, which all illustrate to the
4 committee that the orderly development in this section of town is conservation.
5 Furthermore, the voters approved Capital Improvement Plan funds for the Open
6 Space Plan Fund and for establishment of a Current Use Conservation Fund.
7 These policies, ordinances and funding mechanisms enacted by citizen ballots all
8 emphasize conservation for the orderly development of this region (APB exhibits
9 9-12; ACC exhibit 2).

10
11 The Town of Antrim enacted a Small Wind Energy Ordinance in accordance with
12 RSA 672: I-IIIa by ballot vote in March 2009 (APB exhibit 9) in order to provide
13 and control renewable energy opportunities in town. This ordinance is based on
14 the model recommended by the New Hampshire Office of Energy and Planning
15 (NHOEP), which provides for wind energy facilities up to *100 Kwh*.

16
17 On two separate other occasions, the Antrim voters voted down a Large Wind
18 Energy Ordinance in November 2010 and again in March 2011 (APB exhibit 9).
19 These votes have maintained the zoning policies of the RCD.

20
21 The Town of Antrim has elected its own Planning Board elected since 1968.
22 Consequently, the Board of Selectmen do not have the statutory authority to make
23 or implement land use planning or regulations (RSA 67).

1 3. *The consultant did not consider regional land conservation in their analysis.*

2 The consultant's report of the regional impact of the wind facility focused on the
3 economic aspect of jobs and finances and did not consider the value of conserved
4 lands in the social and economic fabric of the community.

5
6 The applicant's witness, Magnusson served as the junior author of the report. He
7 is not qualified by relevant undergraduate degree or experience (AWE exhibit
8 9.30 attachment MM-1). The applicant did not provide a qualified senior author
9 witness. The applicant's qualified witness, Dr. Gittell was not present to be cross-
10 examined either in person or through remote services. (AWE exhibit 9.30 MM
11 Supplemental 2 lines 1-30).

12
13 **Recommendations:**

- 14 1. The SEC consider the land conservation efforts in abutting towns and the
15 region is the orderly development of the region.
16 2. The SEC should look to the voter adopted Antrim Zoning Ordinances for
17 guidance in land use policy.
18 3. The SEC consider the applicant's evidence for orderly development of the
19 region to be incomplete in regards to the economic value of conserved lands.

20
21 **Aesthetics**

22 The ACC offers four areas for the SEC to consider regarding the aesthetics of the project.
23 These are the distinction between Vissering's visual impact assessment versus the

1 Applicant's method of visibility assessment, the public-private partnerships in New
2 Hampshire for public access, the omission of high valued receptors supported with
3 federal funds, and incomplete cultural resource inventory preventing review for visual
4 impact assessment and cross examination.

5
6 *1. Visual impact assessment versus the Applicant's method of visibility assessment.*

7 AWE's expert offered no view and disclaimed in testimony rating receptors. Mr.
8 Guargellia said, "We did not rate impact" (Transcript day 5 page 35 at 17-18). He
9 then went on to explain "We are assessing visibility. Ms Vissering is assessing
10 impact. (Transcript day 5 PM page 40 at 4-5). Vissering did offer a view and well
11 supported documentation of the issues she saw from various high and medium
12 impacts. She concludes the present project as currently designed would cause
13 unreasonable adverse effects to the scenic quality of the surrounding area" "This
14 project will be highly visible and dominating from numerous sensitive vantage
15 points" (PC exhibit 1 page 18). She continues that an appropriately scaled and
16 designed wind project would be feasible in this location (PC exhibit 1 page 18).
17 Ms Vissering presented a considered and orderly method for evaluating the visual
18 impact of proposed facility. The region is heavily forested with relatively low
19 lying hills thereby it is the visibility from open areas and hilltops that are
20 significant (Transcript day 7 page 35 at 2 to page 36 at 3).

1 2. *The public-private partnerships in New Hampshire for public access.*

2 The applicant's hierarchical ranking of sites is based on out-of-state law (that of
3 NY and Maine); there is no analog in NH which would give greater weight to
4 publicly owned sites rather than private sites open to the public. The "New
5 Hampshire way" is to depend on public-private partnerships as illustrated in
6 several properties. Nearby examples of this public-private partnership include
7 the Willard Pond NH Fish and Game boat access and the privately-owned, opened
8 to the public NH Audubon's dePierrefeu-Willard Pond Wildlife Sanctuary, the
9 Robb Reservoir Waterfowl Management Area owned by the Harris Center for
10 Conservation Education with funds contributed by private individuals, the Town
11 of Stoddard, NH Fish and Game, Ducks Unlimited, the Trust for Public Lands and
12 federal agencies; a third example is The Nature Conservancy's ownership of the
13 White Cedar Swamp at Lovers Mill).

14
15 3. *The omission of high valued receptors supported with federal funds.*

16 The Saratoga Associates study was flawed because it omitted a series of high-
17 value receptors. These receptors include but are not limited to the federally
18 funded Forest Legacy projects; privately owned sites with public access at Bald
19 Mountain part of the dePierrefeu-Willard Pond Wildlife Sanctuary in Antrim,
20 Robb Reservoir Project in Stoddard and the Crotched Mountain Project in
21 Francetown/Greenfield (Transcript day 5 page 173 at 7 to page 174 at 15).

1 4. *Incomplete the cultural resource inventory*

2 The cultural resource inventory conducted by the applicant is incomplete and was
3 not in the application (AWE exhibit 1 vol 1.02 page 2 at 16 to page 3 at 20). This
4 omission prevented Ms Vissering from using historic sites data for her assessment
5 (Transcript day 7 page 55 at 7-17.) and the evaluation of the visual impact to
6 historic sites.

7
8 Recommendations:

- 9
10 1. The SEC adopt for deliberation the methods of Vissering for visual impact
11 assessment.
12 2. The SEC deliberations should include the completed cultural resource
13 inventory and those resources be assessed for the visual impact of the project.

14
15
16 Natural Environment

17
18 The ACC offers two areas for the SEC to consider regarding the natural environment
19 these are the unfragmented lands and wildlife studies.

20
21 *Forest fragmentation*

22 The proposed project lies in a nearly 13,000 acre unfragmented forest block that has been
23 identified in the State of NH Wildlife Action Plan as having the highest ranked wildlife

1 and ecological habitat in the state. This ranking is in part due to the nearly 30,000 acres
2 of connected high quality forested habitat in adjacent towns.

3
4 The project proposes a 4+ mile roadway with side spurs which altogether creates an edge
5 disturbance into this unfragmented forest block of nearly 10 miles of linear length. We
6 feel this is a significant intrusion into this habitat. EO Wilson was cited by Jones (SCC-
7 exhibit 2 pg 2) as identifying the "greatest threat to life on the planet comes from habitat
8 fragmentation and invasive species invasions through human development."

9
10 The project as presently designed will result in both significant habitat disturbance and
11 provide a large area for potential invasions of invasive plants and pests.

12 This is a substantial intrusion into an unfragmented forest block that is one of the largest
13 south of the White Mountains. This forest block has connectivity with other conservation
14 lands in the nearby towns of Hancock, Nelson, Stoddard and Windsor.

15
16 *Wildlife*

17
18 The applicant's wildlife survey was limited and should be required to spend more time
19 collecting data with more definition to the occurrence of the Common Nighthawk.

20 Questioning of Valleau identified that the wildlife survey did not include the period in the
21 spring and summer when migrating Nighthawks are most likely to be observed.

22 (Transcript day 4 page 41 at 15, page 42 at 1).

1 Recommendations

2

3 The applicant has made efforts to bring lands into conservation easements. These
4 are commendable efforts. However, these efforts should not be construed as
5 completing mitigation for the entire project effects. Areas of mitigation should
6 include compensation for view shed disruption as partially documented in the 10
7 mile view shed analysis, the height of the turbines which are greater than any
8 structure in NH and fragmentation of valued wildlife habitat.

9

10 1. The SEC should adopt the site mitigation offered by Vissering (PC exhibit 1
11 page 21 through 22) as a condition of permitting provided the following
12 conditions be met. In particular, the ACC asks the SEC to consider the
13 following on and off -site mitigation measures as conditions to issuing a
14 permit to the applicant.

15

16 a. Eliminate turbines 9 and 10 as they will result in unreasonable, adverse
17 impacts at Willard Pond, Bald Mountain & Goodhue Hill vantage points.

18 b. Reduction of the height of the remaining eight towers to reduce significant
19 visual impacts of the project.

20 c. Use of OCAS lighting or similar motion activated collision avoidance
21 systems-prior to issuing a permit the SEC receive assurance from FAA that
22 such technology will be permitted and used at this location.

- 1 d. Screening and plantings to shield the roadway and turbine pads to decrease
2 visual impact of project when viewed from higher elevations.
- 3 e. Refine conservation easement language to prevent future development of the
4 ridge and near ridge-line slopes at post project construction and following
5 decommissioning.
- 6 f. Refine conservation easement language to define 'the reserved right' building
7 locations to be off the ridge-line and near ridge slopes.
- 8 g. The applicant has provided for conservation easements to offset the
9 development impacts of the turbines and associated road. Further migration
10 needs to be offered for the dramatic change in view at Willard Pond and
11 Gregg Lake- the town beach, lake and Meadow Marsh trail area.
- 12 h. Land protection of other open water view sheds and/or high value wildlife
13 habitat within the Monadnock region. The protections through easements or
14 fee protection should be conducted through a regional land trust or state
15 and/or federal conservation agency.
- 16 i. Mitigation for the fragmentation of the valued wildlife habitat could include
17 but not limited to conservation easements or fee paid conservation of land
18 parcel(s) that would connect parcels of protected lands to create an un-
19 fragmented parcel of land equal in size or greater to the fragmented lands of
20 the project. In other words to make amends for the fragmentation caused by
21 the road, turbines and associated buildings.
- 22

1 The ACC would like to thank the NH SEC for the opportunity to present this
2 brief. We would also like to expresses our sincere appreciation of the staff for all
3 their hard work and diligence during the course of these proceedings and for their
4 patience and understanding toward all of the parties in this process.

5 Respectfully submitted

6 Peter Beblowski, Chairman

A handwritten signature in cursive script, reading "Peter Beblowski". The signature is written in dark ink and is positioned to the right of the typed name.

7 Antrim Conservation Commission