

1                                   **THE STATE OF NEW HAMPSHIRE**  
2                                   **SITE EVALUATION COMMITTEE**

3                                   **Docket No. 2015-02**

4                                   **APPLICATION OF ANTRIM WIND ENERGY, LLC**  
5                                   **FOR A CERTIFICATE OF SITE AND FACILITY**

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7                                   **INTERVENOR'S POST-HEARING BRIEF**

8 **NOW COMES** the Allen/Levesque Intervenors (“Intervenors”) and respectfully submits  
9 **this Post-Hearing Brief.**

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11           **I.       SUMMARY**

12 In the pre-filed testimony of our witnesses, Mary Allen, Chris Wells and Charles Levesque and the  
13 subsequent cross-examination of these witnesses, five major points were covered and worth re-  
14 stating here:

- 15       • That the Town of Antrim, represented and demonstrated by its legislative body (Town  
16       Meeting) does not support the proposed Antrim Wind project;
- 17       • That under Antrim zoning, the proposed wind farm is not a permitted use and that Town  
18       Meeting in Antrim had three opportunities to change that to allow this use as a permitted  
19       use in Antrim zoning and chose not to by rejecting ballot votes on a change to zoning in  
20       2011, 2012 and 2014;
- 21       • That the PILOT agreement signed by the Antrim Selectmen with Antrim Wind is not in the  
22       best interest of the Town of Antrim and its taxpayers because it gives away over \$5,000,000  
23       of tax revenue over the life of the project;

- 24 • That the Town of Antrim, through a Town meeting vote in 2006, approved a plan – the  
25 Antrim Open Space Conservation Plan - to permanently conserve the entire area proposed  
26 for the wind farm from development; and
- 27 • That both the Supersanctuary land conservation effort of the Harris Center for Conservation  
28 Education and the Quabbin to Cardigan Partnership land conservation effort both identify  
29 that the land being proposed for the wind farm by Antrim Wind Energy under this docket is  
30 very important for permanent land conservation.

31 And lastly, should the SEC choose to grant a certificate of Site and Facility for the Antrim Wind  
32 project, we request that two conditions be included with the certificate.

## 33 **II. ARGUMENT**

### 34 The Votes 35

36 In official and binding votes, Antrim voters have not supported large-scale wind energy  
37 projects or zoning changes that would have allowed large-scale wind projects.

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39 Straw polls and surveys, which can be done informally or often face-to-face, do not have the  
40 weight of official ballot-box votes. What a voter does in a voting booth has much more  
41 weight than what he or she will say to a selectman or neighbor circulating a petition. Straw  
42 polls and surveys are also not binding. The ones conducted by the Selectmen and Antrim  
43 Wind clearly had major flaws, making their results suspect, at best.

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45 Three times and in three separate votes, voters in Antrim have been clear in their opposition  
46 to permitting large-scale wind projects within the town's borders. In summary:

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48 November 2011: The Antrim Planning Board, with the support of the Board of Selectmen,  
49 scheduled a special Town Meeting vote to consider a zoning amendment that would have  
50 allowed large-scale wind energy projects as a permitted use in town.

51 Result: 309 yes; 501 no.

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53 March 2012: Given the November 2011 vote, the Antrim Planning Board continued to  
54 work on drafting an ordinance for wind energy development and offered a second version to  
55 voters during official balloting at the March 2012 Town Meeting.

56 Result: 244 yes; 350 no.

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58 March 2014: A citizens' petition was submitted to the Town for another vote on a large-  
59 scale wind energy zoning ordinance. This ordinance had been written by principals of  
60 Antrim Wind Energy LLC.

61 Result: 278 yes; 390 no.

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63 Of particular note is the clear wording of the March 2014 ballot question:

64 "Amendment #5: Are you in favor of the adoption of Amendment No. 5 as submitted by  
65 petition for the Town of Antrim Zoning Ordinance which would provide for the  
66 development of Wind Farms in the Rural Conservation District and the Highway Business  
67 District and establish specific development standards, including standards on proper  
68 construction, public health and safety, noise, environmental and visual impacts, and require  
69 operational agreements with the Town?"

70 There is nothing ambiguous or confusing about this 278-390 vote and the language of the  
71 ballot question is very clear.

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Antrim Wind’s proposed project may have some support amongst some Antrim citizens, but a clear majority of the town’s voters have spoken three times against efforts to open the Rural Conservation District to large-scale wind developments. For reasons that are unclear, the Antrim Board of Selectmen have ignored those legal and binding votes.

PILOT

The PILOT agreement developed by Antrim Wind Energy LLC is not in the best interest of the Town of Antrim.

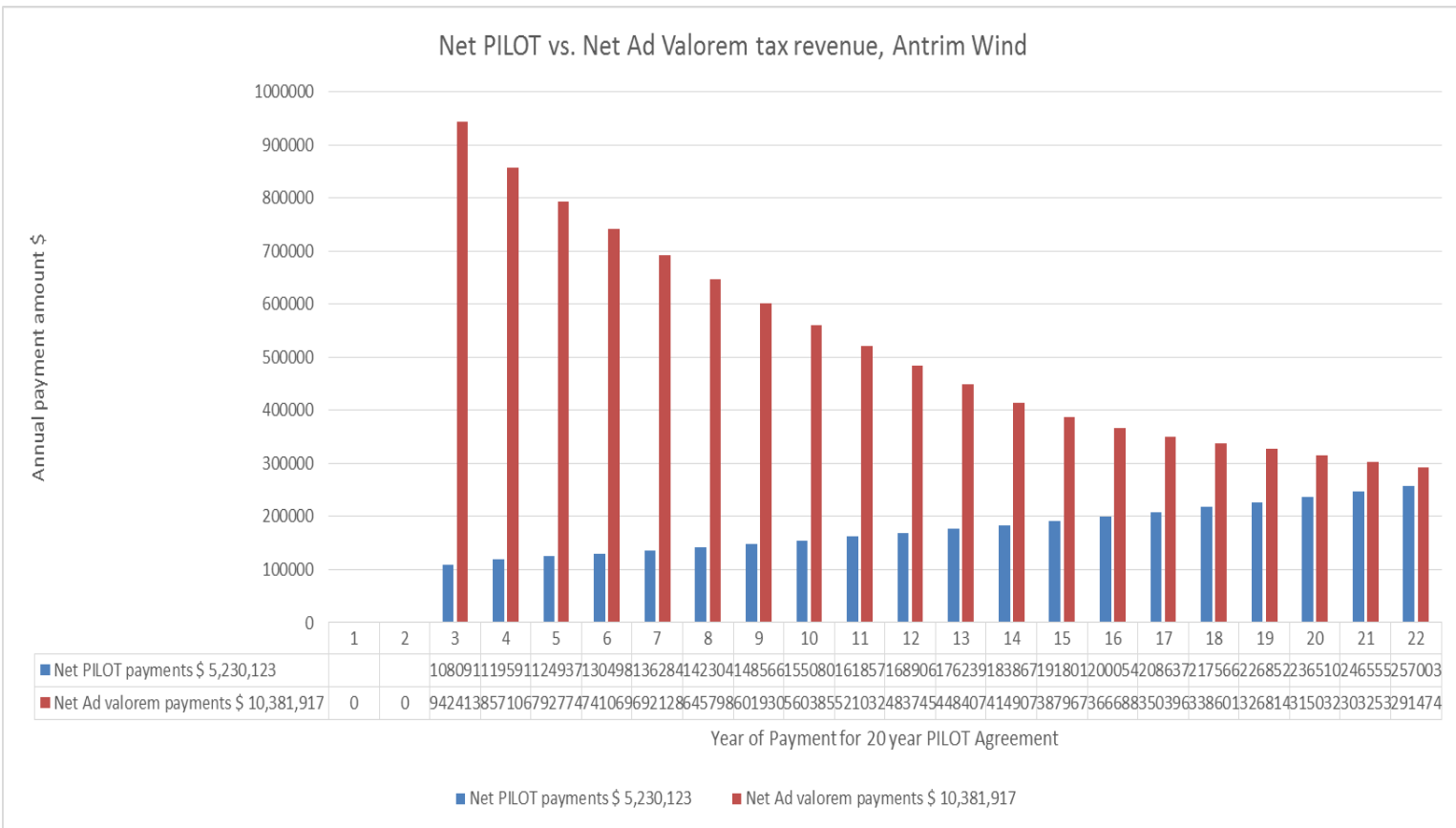
In 2011 Antrim Wind Energy LLC negotiated and signed a Payment in Lieu of Taxes (PILOT) agreement with the Antrim Board of Selectmen. That PILOT agreement, which covers the expected 20-year life span of the wind project, is still in effect and has not been re-negotiated to reflect the passage of time or strong concerns raised by citizens. In a Right-to-Know citizen lawsuit ruled on in May, 2013 by Hillsborough County Superior Court Judge David A. Garfunkel, the Antrim Selectmen were found guilty of negotiating with Antrim Wind on the PILOT in secret closed meetings, in violation of RSA 91-A. The Judge vacated the signed PILOT. The Selectmen held a subsequent public hearing and re-signed the exact same PILOT agreement, ignoring public comment again, and the argument that taxpayers in Antrim would lose millions of dollars on the deal.

This proposed wind energy facility will not be taxed as other businesses are in Antrim (ad valorem). It will be taxed based on the PILOT payment schedule that the Board of Selectmen has committed to. Over the 20-year life span of the AWE project, the Town of Antrim will receive \$14.2 million in revenue. If ad valorem taxation was used, the Town

95 would receive approximately \$19.9 million in property tax revenue. Taking into account the  
 96 additional tax payments due the ConVal School District and Hillsborough County, the net  
 97 revenue to the Town under the PILOT is \$5,230,123 and under ad valorem \$10,381,917.

98 The difference in lost revenue is about \$5.15 million over the life of the project. That is a  
 99 significant amount of money that Antrim taxpayers will have to pay, in essence, to finance  
 100 the Antrim Wind project.

101 The following graph shows the difference.



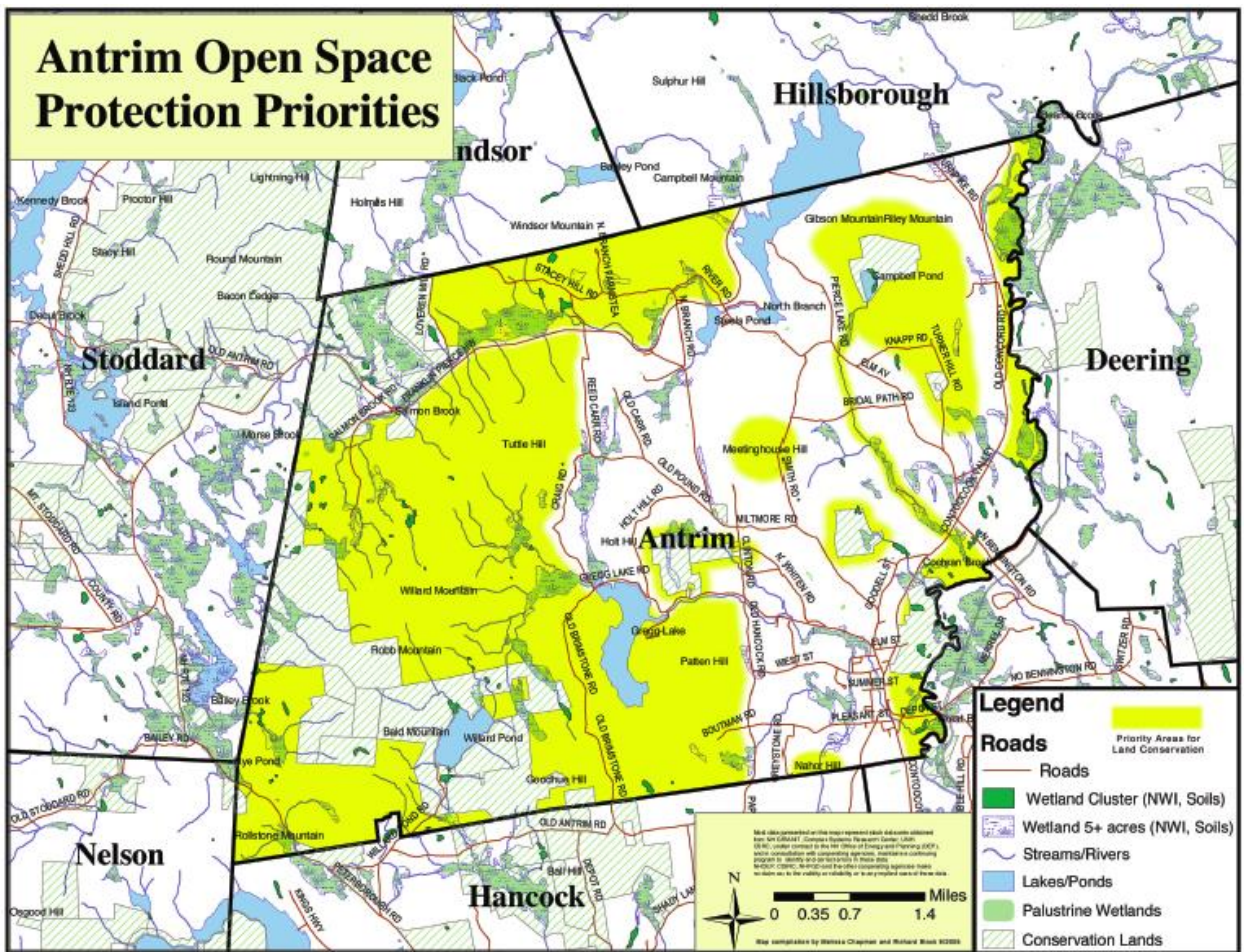
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104 Land Conservation in Antrim

105 For the past decade, Antrim voters have been clear about their intent to conserve and  
 106 protect certain undeveloped/underdeveloped sections of town.

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In March 2006, Antrim voters approved a Future Land Use section under the town's Master Plan. Under that section, the Open Space Conservation Plan for Antrim identifies priority areas for conservation and recommends the use of conservation easements to permanently protect those areas. The major areas identified in the Plan cover much of town west of Gregg Lake, from the Hillsborough and Windsor town lines and then south to the Hancock town line. That area is shown in yellow in the map from the Plan:



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In other words, the area described in the Open Space Conservation Plan as of highest importance for protection includes the proposed site for Antrim Wind Energy's project.

118 Mitigation is not the same as preservation/conservation

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120 Antrim Wind Energy LLC has made monetary offers to the Town of Antrim (\$40,000 for  
121 improvement to Gregg Lake beach; \$5,000 a year for scholarships); conservation easements  
122 on hundreds of acres it is leasing from individual owners; and promised money for future  
123 conservation efforts (proposed \$100,000 gift to the New England Forestry Foundation).

124 But this is mitigation after the fact. And mitigation isn't the same as conserving or  
125 protecting land before it is used for an industrial project. Proposing to conserve land around  
126 the largest development in the history of Antrim, is not land conservation.

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128 The intent of Antrim's Open Space Conservation Plan and the intent of various drives by  
129 local conservation groups (examples: the Antrim, Stoddard and Deering town conservation  
130 commissions), local regional conservation organizations (the Harris Center for Conservation  
131 Education; Monadnock Land Conservancy), state (the Audubon Society of New Hampshire  
132 Society for the Protection of New Hampshire Forests) and multi-state efforts (Quabbin to  
133 Cardigan) is to conserve important tracts of land before they are developed ... not afterward.

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135 Considerable private and public funds have gone into conservation efforts within this core  
136 habitat zone, which is part of the watershed of the Connecticut and Merrimack rivers. To  
137 allow an industrial use for a private developer in the midst of this important tract of mainly  
138 undeveloped land is contrary to any reasonable definition of "public interest" or "public  
139 good."

140 After 20 years (longer, if this wind project seeks to be re-powered, which is likely if it is  
141 built), the turbines will be removed and the roadbed seeded over. But the ridge-top from  
142 Tuttle to Willard will not be returned to its current condition. It will be forever changed.  
143 And the largest parcel of leased land (Bean family) will be open to further development while  
144 the northern most property could have a structure built on the ridge, using the wind farm  
145 access road as its driveway.

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147 Mitigation is NOT the same as conservation and preservation. Monetary gifts and post-  
148 construction easements are “weak tea” after valuable land has been used for industrial  
149 purposes.

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## 151 **CONDITIONS**

152 Should the SEC choose to grant a certificate of site and facility for the Antrim Wind project,  
153 the Allen/Levesque intervenors have two conditions which should be included:

- 154 • First, the SEC should require that the Antrim Board of Selectmen and Antrim Wind nullify  
155 the PILOT agreement signed that will cost Antrim taxpayers, and others in the ConVal  
156 School District and Hillsborough County, millions of dollars in lost tax revenue. Antrim  
157 taxpayers did not agree to such a loss of tax revenue. Other taxpayers in the School District  
158 and County likely have no idea that this project could affect their tax bills.
- 159 • Secondly, we ask that the attempt to include land conservation as part of the Antrim Wind  
160 package be made to pass a legitimate test of protection. Specifically, all land leased for the  
161 project – the entire set of leased parcels totaling well over 1,000 acres - be made to truly yield  
162 conservation benefits when the conservation easements guarantee some form of permanent  
163 conservation in 50 years from the signing of the letters of intent between the Harris Center



164 for Conservation Education and Antrim Wind. This means that no reserved rights for  
165 future development be allowed on any of those parcels. The Bean family parcel should not  
166 be developable at the ridge or below and the Ott property should retain no reserved rights to  
167 build a future set of structures on the ridge – nor should any of the others.

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169 Respectfully submitted,

170 Mary Allen and Charles Levesque

171 November 21, 2016