

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Petition of Deerfield Wind, LLC, for a certificate of public good)
authorizing it to construct and operate a 17-turbine, 34-35.7 MW)
wind generation facility, and associated transmission and)
interconnection facilities, on approximately 80 acres in the Green)
Mountain National Forest, located in Searsburg and Readsboro,)
Vermont, with 7 turbines to be placed on the east side of Route 8 on)
the same ridgeline as the existing GMP Searsburg wind facility)
(Eastern Project Area), and 10 turbines along the ridgeline to the)
west of Route 8 in a northwesterly orientation (Western Project)
Area.)

Docket 7250

SUR-REBUTTAL TESTIMONY OF TOM SHEA

Q Please identify yourself.

A My name is Tom Shea. I own a house on Route 8 that would be one of, if not the, closest house to the proposed installation. My mother also owns property next door to mine in Searsburg and I serve as attorney in fact for my mother's affairs.

Q Do you consider Searsburg to be your hometown?

A I do.

Q Have you reviewed the revised petition submitted July 3, 2008?

A I have, to some extent.

Q Do you feel there have been significant changes in the proposal from the previous submissions?

A Yes, I do.

Q Do you feel the changes are positive?

A I do in general, specifically the removal of some of the turbines closest to my property and my mother's property. This possibly makes it so that I am not the nearest homeowner to the proposed installation, but I am unable to verify this. However, I still have serious

reservations regarding the current proposal. In sum, I feel that the proposed installation is *not* in the best interest of me, my family, Searsburg and the surrounding communities, or the State of Vermont.

Q Do you have specific concerns regarding the installation, and how it will affect you personally, specifically as described in the revised proposal of July 3, 2008?

A Yes, among them are the amount of noise that will be generated, the amount of shadow or light flicker, and the disturbance of wildlife due to these effects.

Q Do you feel that you have been allowed access to sufficient information to evaluate how this will affect you?

A I do not, specifically in the exact location of where the proposed turbines would be installed.

Q A complete printed set of the petition was provided to you as well as a disk of pdf files. In addition, petitioner supplied several disks of what was characterized as “all of the “original format” files” in response to an SVR request. You do not feel this information is sufficient?

A I do not.

Q Please explain.

A First I feel that it is incomplete in many respects and incorrect in others. As such, I consider it unreliable data that at best would not allow me to evaluate, and at worst, cause me to reach incorrect conclusions.

Q Could you give an example of this?

A For incomplete data, I would use for example the lack of updated view of file: Copy of SRV-1168-001_DESIGN_05-23-08.dwg, included on disk 1, NJ technical files, or file: ACAD-ACAD-SRV-1168-001_DESIGN_05-21-07woCONTOURS.dwg, on disk 3, HL files. Both show the old configuration with 17 turbines but there is no updated file for either. Additionally there are multiple files in the disk 2 “MB” sub-directory that are password protected such that that cannot be opened or copied to my hard drive.

For incorrect data I would reference my filing to the Board of August 19, 2008:

In addition, the scale reference on several exhibits is incorrect as the drawings were provided. e.g., JK-11, drawing number CS100 lists scale as 1” = 100’. On the printed copy of this drawing submitted with the revised petition, the distance from Sleepy Hollow Road (top of CS112 block) to Putnam Road (top of CS 114 block) is approximately 4.5 inches. This would mean that the distance is intended to be characterized as 450 feet. The actual distance between these two points is approximately 2 miles or over 10,000 feet.

This is only one of numerous examples of inaccurate or missing scaling in the exhibits provided by the petitioner.

Errors such as this may seem trivial, but they point to a lack of concern for detail in the petition. They make it extremely difficult to determine the actual location in this case, and in general make it difficult to determine how the installation would actually be erected. For a multimillion dollar expenditure, one could reasonably assume that the preparation for the proposal would be assembled with greater accuracy. If you take the example noted above, if one were to use the scale on the drawing, and location of the turbines were determined based on scale distance from Sleepy Hollow Road and Route 8, the approximate center of the proposed installation, the locations would be very different from several of the other exhibits submitted (and what I believe to be the intent of the petitioner).

In this case, several of the turbines would likely be located directly on my property and my mother's property. I cannot say this with certainty, since the petitioner has refused to provide electronic documents where I could verify this, claiming they are not required to do so under VSA 248 rules.

Petitioner's counsel has stated, at alternating times, that they have supplied sufficient data regarding this, and also, conversely, that supplying the same data would be overly burdensome. I feel these are contradictory statements. When questioned regarding the adequacy of the supplied documents, petitioner demanded an accounting of each instance of inadequacy. Given that the number of such instances are too numerous to count, and that it shifted the burden of verifying accuracy from the petitioner to me, I considered this demand to be unreasonable. The petitioner's counsel also demanded that I clarify what was meant by drawing, map and diagram. It is my opinion that it would be reasonable to consider that the party that compiled and indexed this material, and who provided it as evidence, would be capable of determining which of their documents were maps, diagrams and drawings.

While this may seem to be a minor point to the petitioner, it is of vital interest to me, both in its impact directly on me and the impact on the local community.

In addition, I would note that several documents refer to the "Shea residence". I would assume that this is due to the fact that I am an active party in this proceeding. I would note that the dwelling referred to in each of these documents is owned by my mother (I am next door). I would also point out that no other property is identified by the owner, excepting the property on which the existing generating station is located.

There is no discernable reason why my mother's house would be singled out for particular attention of this nature. In a town of less than 100 residents and only 166 **total** properties (as of 2007 grand list), it would appear that petitioner made it a point to identify my house and still failed to do so accurately. This is simply sloppy data gathering. If the period of

discovery were not past I would challenge the petitioner to provide a reason other than incompetence for this fact.

Q Do you consider this to be a lack of cooperation?

A I do. I also consider it to be confrontational.

Q Does this trouble you?

A Not in itself. I believe it to be a conscious tactic, attempting to further their argument, in a way. Given their position, I would attempt to gain whatever advantage I could also. However, given the execution, it seems that it would indicate a lack of good faith, especially given that it was not an isolated instance. In my opinion, the end effect is that it does not further their argument.

Q You mentioned the disturbance of wildlife. Could you please elaborate on this?

A I would use as a reference, the existing generating station on the east ridge (Mt. Waldo). Prior to this installation, I had over 30 years of personal experience of both living in and using the area for recreation. In that time, I had a total of zero direct encounters with bears while on foot in the woods. During that time there were many bear living in the area, based on my own observance of skat and tracks, reports of kills both from cars and during open hunting season, and from reports in the local media. While I am not a biologist, and I do not have population numbers, I would believe that bear population was relatively constant during that time and since.

Since the time that the existing generating station was installed, I have had at least three encounters with bears while on foot in the woods. My belief is that under normal circumstances, the bears would hear me before I got near them and, being naturally adverse to human contact, would vacate the area in which I was walking prior to my being aware of their presence. Since the existing turbines were installed, I believe the background noise masks other sounds in the woods, and thus makes it difficult for the bear (or other wildlife) to hear me before I am dangerously close to their location.

Q Do you have a basis for this opinion?

A Yes. When I walk in the woods, I frequently use sounds as a locating mechanism. It is the second most used tool after visual input -- e.g., using the sun and stars, and direct line of vision. For instance, when I am a half mile up the hill from Route 8, the passing car traffic will tell me which direction the road is. The sound of the brook that runs through my property will give an indication in the perpendicular direction. Both of these are useful navigating tools, as there are several knob hills in the area that make it difficult to navigate without positioning help -- easy to get "turned around", as they say.

Since the existing turbines were installed, when I walk in the woods and the turbines are turning (that is when they actually produce electricity), I find it much more difficult to use sound as a locating tool. The sound of passing cars is heard only in a much more limited area, very close to the road, where it is generally not as useful, due to visual locating being available. The same is true for proximity to the brook on my property, or any brook for that matter.

Q Why is this relevant to this petition?

A First, as I said it points out the potential for increased, undesired, interaction between humans and predators. It also is at least one data point that supports other evidence in this docket that industrial generators do indeed influence movement and human interaction with predators. Again, I am not a biologist, but it seems that this point is evident to even a lay person.

Given that the proposed installation is significantly larger, both in the size and number of turbines, it would be reasonable to conclude that the impact would be more severe. That is a real and important concern to me. I believe that it would make the area less “natural” and also increase the likelihood of negative encounters with predators.

I have said in a letter submitted to the USFS in 2005 (see attachment A) regarding the local area and the prospect of additional turbines being installed:

I am deeply concerned on the impact both on the wildlife, and on the general public's (myself and my family included) ability to enjoy the uniquely beautiful area, that this industrial generating station will have.

My family has a history in Searsburg, dating to the early 19th century, when my great great grandfather moved to town. My parents first bought property in the early 1960's. The attraction was obvious. It is a remote, still wild, location of a type that is rapidly disappearing. It is still the 'old woods'.

Indeed, it is still “old woods”. Installation of this generating station would drastically alter the character of the area. It is one of the remotest in the southern part of the state. There are others more qualified to evaluate this, but I believe the negative impact could be irreversible.

Q You asked in initial discovery if petitioner considered the proposed facility to be an expansion of the existing generating facility in Searsburg. Petitioner denied that the proposed installation was an expansion. What is your opinion on that position?

A I would note that well over 30 documents included in the response to discovery of SVR contain the phrase “Searsburg Expansion” in the title. I certainly consider it an expansion.

Denying that the proposed facility is an expansion while titling documents as “expansion” is contradictory and dishonest in my opinion.

Q Why is this concern to you?

A As an “expansion”, it would be reasonable to assume that there would be one entity responsible for ensuring that both the existing generating station and the proposed installation operate within guidelines of the CPG.

Q Why is this concern to you?

A I will use a hypothetical example to illustrate. Suppose that the level of noise becomes so loud that the noise is unbearable and above the guidelines of both the existing generating station’s CPG and the presumed guidelines of the proposed facility. Short of hiring a sound expert to determine the source of the noise, my recourse to obtain relief would be to implore relief from both the existing station operators and the new facility operators. My experience in similar situations is that both would deny culpability on first contact, and that the burden would be on me to prove culpability, and portion thereof, between the two parties. The only way to do this definitively is by force of law, i.e., suing in a criminal court.

Any such lawsuit would require expenditures in excess of the total value of my property. Therefore it would be illogical to pursue relief in most cases. This is most certainly not in the interest of “Public Good”.

Q How does this relate to your comment above regarding your opinion that denying that the proposed facility is an expansion is a dishonest characterization?

A I have no proof, but it appears to be a willful attempt at limiting responsibility and culpability should a dispute, such as that noted directly above, occur

Q Does this conclude your testimony at this time.

A It does at this time.