

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7250

Amended Petition of Deerfield Wind, LLC, for a)
certificate of public good authorizing it to construct and)
operate a 15-turbine, 30 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)
8 turbines along the ridgeline to the west of Route 8 in)
the northwesterly orientation (Western Project Area))

Order entered: 1/8/2016

ORDER RE: FIRST AND SECOND COMPLIANCE FILINGS

INTRODUCTION

On May 1, 2015, and June 1, 2015, Deerfield Wind LLC ("Deerfield") submitted the first and second sets of compliance materials pursuant to conditions contained in an Order (the "Order") and Certificate of Public Good ("CPG") issued by the Vermont Public Service Board ("Board") on April 16, 2009, for construction and operation of a 30 MW wind electric generation facility located in Searsburg and Readsboro, Vermont (the "Project"). The first set of compliance filings was filed May 1, 2015, and consisted of the Federal Aviation Administration ("FAA") Determinations of No Hazard to Air Navigation ("Determinations"), a blasting plan ("Blasting Plan"), and copies of the construction and operational stormwater permits for the Project. The second set of compliance filings was filed on June 1, 2015, and consisted of final design plans, a preliminary substation plan, and a construction schedule.

For the reasons set forth below, in this Order we accept the FAA Determinations, subject to the requirement that Deerfield must obtain a determination from the FAA regarding whether any additional analysis is required due to intervening turbine micro-siting decisions and revised

turbine heights. With respect to the Blasting Plan, we are deferring our ruling at this time based on concerns raised by the commenting parties, and we direct Deerfield to address additional items in the plan. With respect to the stormwater permits, we are deferring our ruling at this time until we have had the opportunity to review all of the permit information, and to provide intervening neighbor Thomas Shea ("Mr. Shea") with time to review and comment on the operational phase stormwater permit based on complete permit information.

PROCEDURAL HISTORY

On April 16, 2009, the Board issued an Order and CPG in this docket approving, subject to certain conditions, the construction and operation of the Project.

On July 17, 2009, the Board amended the CPG for the Project ("Amended CPG").

On April 7, 2011, the Board further amended the CPG regarding certain requirements for a bear study ("Bear Order").

The Board Orders, the CPG, and the Amended CPG required Deerfield to make several post-certification compliance filings.

On May 1, 2015, Deerfield submitted the first set of compliance filings for party comments and Board review.

On May 18, 2015, Wind Action Group ("WAG") filed comments on Deerfield's first set of compliance filings.

On June 1, 2015, Deerfield submitted its second set of compliance filings for party comments and Board review.¹

On June 3, 2015, Mr. Shea filed comments on Deerfield's first set of compliance filings.

On June 5, 2015, the Vermont Department of Public Service (the "Department") filed comments on Deerfield's first set of compliance filings.

On June 15, 2015, Deerfield filed a response to WAG's and Mr. Shea's comments on the first set of compliance filings.

1. Deerfield made additional compliance filings on July 2, 2015, and October 29, 2015. The Board will address these filings in future orders.

On June 15, 2015, WAG filed supplemental comments on Deerfield's first set of compliance filings.

On June 19, 2015, the Vermont Agency of Natural Resources ("ANR") filed comments on Deerfield's second set of compliance filings.

On June 30, 2015, the Department filed comments on Deerfield's second set of compliance filings.

On July 1, 2015, WAG filed comments on Deerfield's second set of compliance filings.

On July 15, 2015, ANR filed additional comments on Deerfield's second set of compliance filings.

On July 31, 2015, Deerfield filed a revised blasting plan in response to Department comments.

On July 31, 2015, Deerfield filed a response to WAG's comments on the second set of compliance filings.

The May 1, 2015, Compliance Filing

Deerfield's May 1, 2015, filing included: (1) the FAA Determinations for the turbines; (2) the Blasting Plan; and (3) stormwater permits issued by the Vermont Department of Environmental Conservation, including an Individual Construction Stormwater Discharge Plan and an operations Discharge Permit.

1. The FAA Determinations

Condition 33 of the Amended CPG states:

Deerfield shall obtain and submit the final Federal Aviation Administration determination prior to the erection of the turbine towers. Parties shall have two weeks to comment on the filing.

On May 1, 2015, Deerfield filed a separate FAA Determination for each of the Project's 15 wind turbine towers.² The FAA Determinations refer to latitude and longitude coordinates for each turbine and specify a structure height of 428 feet above ground surface. The FAA

2. Deerfield filing of 5/1/15 at Attachment 1.

Determinations include conditions requiring the use of white paint for each tower and installation of synchronized red lights for a subset of the towers. The FAA Determinations also stated that, "Any change to the height, location or number of turbines within this project will require a reanalysis of the marking and lighting recommendations for the entire project. WAG and Mr. Shea filed comments on the FAA Determinations.³

WAG stated that the turbine heights referenced in the FAA Determinations were 428 feet above ground surface, which is higher than the 401-foot turbine heights indicated in the Board Order approving a CPG for the Project.⁴ WAG stated that a change in turbine manufacturer or model warrants updating the sound, visual, and other impact assessments relied upon by the Board in issuing the CPG.

According to Mr. Shea, the FAA Determinations indicated that the structures are to be located in Jacksonville, Vermont, and that therefore the locations of the turbines that are the subject of the FAA Determinations were not properly identified.⁵

Deerfield responded to concerns raised about the FAA Determinations in a filing dated June 15, 2015, stating that it submitted the request for determination to the FAA with a higher turbine height as a precaution, that its submission to the FAA contained the correct towns for the turbine locations, which the FAA inadvertently listed as Jacksonville on each of its determinations, and that the locations of the turbines on the final design plans align with the coordinates set forth in the FAA Determinations.⁶

Deerfield's final design plans indicate turbine locations using a different coordinate system (Universal Transverse Mercator coordinate system northings and eastings)⁷ than was used in the FAA Determinations. The fact that Deerfield's coordinates correspond to the latitude and longitude coordinates in the FAA Determinations can be confirmed by converting one of the

3. WAG filing of 5/18/15 at 2; Shea filing of 6/3/15 at 3. WAG's comments referencing the FAA Determinations seemed mostly relevant to the final design plans and therefore are dealt with later in this Order.

4. WAG filing of 5/18/15 at . WAG incorrectly referred to the CPG, when it should have referred to the Board Order of 4/16/09 at 11, where the Project Elements description indicates total turbine height of the models specified for the project are 389 and 401 feet.

5. Shea filing of 6/3/15 at 3.

6. Deerfield filing of 6/15/15 at 2.

7. Deerfield filing of 6/1/15 at Attachment 3.

sets of coordinates to the other coordinate system, or by mapping the latitude and longitude coordinates. Moreover, based on a publicly available online mapping tool,⁸ the latitude and longitude locations in the FAA Determinations appear to correspond to the correct region of Searsburg and Readsboro where the Project site is located. Therefore, despite the fact that the FAA Determinations state the locations as Jacksonville, they clearly pertain to turbine locations in the correct Project area. Thus, we conclude that the final design plans are not inconsistent with the locations used in the FAA Determinations.

In a separate submission dated June 1, 2015, required by Condition 2 of the Amended CPG (discussed below), Deerfield provided final construction plans that incorporate final turbine locations based on micro-siting and a revised configuration of turbine models with different blade lengths than in the initial petition. Deerfield indicated that the micro-siting consisted of fine-tuning turbine locations within each turbine tower pad, resulting in lateral shifts in location of up to 75 feet; additionally, Deerfield indicated that the pad location for one turbine had been relocated laterally 50 feet due to construction considerations.⁹ The same filing also provided details of the revised turbine configuration, which was changed from five Gamesa G80s (each with a total height of 387 feet) and two Gamesa G87s (each with a total height of 399 feet) to seven Gamesa G87s on the east ridge, and from eight Gamesa G87s to eight Gamesa G97s (each with a total height of 415 feet) on the west ridge.¹⁰

These final design details are discussed here because they indicate changes in turbine location and total turbine height that could require reanalysis by the FAA. FAA Determinations are issued to comply with Title 14 of the Code of Federal Regulations (14 CFR) Part 77; FAA guidance for wind turbines states that the FAA considers micro adjustment or micro-siting to mean moving the wind turbine from 100 to 500 feet from its originally filed location.¹¹

Accordingly, a shift in pad location for one turbine and micro-siting adjustments within the pad locations of up to 75 feet for the other turbines could be considered to be consistent with the original Determinations and therefore may not require reanalysis by the FAA. However,

8. <http://www.latlong.net>

9. Deerfield filing of 6/1/15 Attachment 1 at 6.

10. Deerfield filing of 6/1/15 Attachment 1 at 1.

11. <https://oeaaa.faa.gov/oeaaa/external/searchAction.jsp?action=showWindTurbineFAQs>

because the final design contains changes from the siting specifications originally submitted to the FAA for review, the Board directs Deerfield to obtain confirmation from the FAA that no reanalysis is needed. Additionally, the FAA Determinations clearly state that any change to the height, location, or number of turbines within the project would require a reanalysis of the marking and lighting recommendations for the entire project. Based on the fact that the actual turbine heights will be less than 428 feet, which is the height referred to in the FAA Determinations, the Board directs Deerfield to clarify with the FAA whether reanalysis is required, and if so, to provide final, revised FAA Determinations for the final turbine configuration when received in order to comply with Condition 33 of the Amended CPG.

2. Blasting Plan

Condition 24 of the Amended CPG states:

Blasting associated with construction of the Project shall be minimized to the extent practicable and performed only during the hours of 9:00 A.M.-5:00 P.M. Monday-Friday, except that no blasting may occur on state holidays.

Condition 25 of the Amended CPG states:

All blasting shall be carried out by licensed and certified blasting technicians. All blasting shall be performed in accordance with any and all applicable laws and regulations, including, but not limited to, U.S. Department of Interior Rules 816.61-68 and 817.61-68 and the Blasting Guidance Manual, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of Interior to limit peak particle velocity and ground vibration to safe levels. Noise and air blast effects shall be limited through application of proper techniques and blasting mats will be used where needed to limit the occurrence of flyrock.

Condition 26 of the Amended CPG states:

Prior to performing any blasting for the Project, Deerfield shall develop a blasting plan that includes pre-blast surveys of wells and structures in the surrounding area and shall arrange for a public information session with surrounding landowners to address concerns related to blasting.

Condition 27 of the Amended CPG states:

In the event surrounding landowners express concern regarding the impacts of blasting on wells or other structures on their property, Deerfield shall perform evaluations to

determine if any damage has occurred as a result of blasting activities and, if so, remediate any such damage.

On May 1, 2015, Deerfield filed a Blasting Plan for the Project.¹² The Vermont Department of Public Service ("Department"), WAG, and Mr. Shea provided comments on the Blasting Plan. The Blasting Plan included the following procedures:

1. Deerfield or its blasting contractor will hold public information meetings in all towns within a one-half-mile radius of the blasting site at least one month prior to blasting, will provide one week notice to all property owners within the one-half-mile radius using certified mail and door hangings, and will offer pre- and post-blast surveys of structures and wells for interested landowners.
2. Deerfield or its contractor will perform post-blast surveys to assess property damage to structures or wells for any property owners within a one-half-mile radius of the blasting site, and will remediate any damage found.
3. All blasts will be monitored by an individual properly trained in use of seismic monitoring equipment.
4. All blasting procedures will be coordinated with Deerfield's on-site representatives and the local Fire Department, and blasts will be developed to minimize ground vibrations and maximize protection of surrounding structures; blast vibrations will be monitored at the structures closest to the blast site; and blasts will be designed to follow industry vibration limits, state and local regulations, and to protect nearby structures.
5. Blasts will comply with, among other details in the plan:
 - a. Blasting times limited to 9:00 A.M. - 5:00 P.M. on Monday through Friday, with no blasting on state or federal holidays;
 - b. Blasting will only occur as set forth in a blasting schedule, except in emergency situations;
 - c. Warning signals will be used before and after each blast;
 - d. The project site will be posted with signs explaining the signals, and similar signs will be provided to property owners within a one-half-mile radius of the blasting site;
 - e. Deerfield or its contractor will actively control access to the blasting area before and after each blast within a 1,000-foot radius; and
 - f. Blasting mats will be used to limit the occurrence of flyrock when blasting near any structures.

12. Deerfield filing of 5/1/15 at Attachment 2.

6. All blasters on the project will be licensed and certified in the State of Vermont, and will comply with all state and federal statutes and regulations governing site safety.
7. A blast report will be prepared for each blast and made available as needed (sample blast report provided).

The Department provided comments on the Blasting Plan dated June 5, 2015.¹³ The Department recommended that Deerfield obtain certification of its plan by a licensed and certified blasting technician, and that Amended CPG Condition 25, which requires all blasting to be carried out by licensed and certified blasting technicians, be interpreted to mean that all blasting *activities* should be carried out by licensed and certified blasting technicians. The Department also requested additional detail on conditions under which blast mats would be used to prevent flyrock from striking structures and abutting properties.

In response, Deerfield provided a revised Blasting Plan dated July 31, 2015, that was signed by a Vermont-licensed and certified blasting technician,¹⁴ and indicated that blasting mats and backfill will be used to control flyrock when blasting occurs within 500 feet of nearby structures, roadways, and other sensitive areas.¹⁵

The original Blasting Plan states, "All blasters on this project will be licensed and certified in the State of Vermont and have appropriate training in the safe use and handling of explosives. They will also comply with all state and federal statutes and regulations regarding construction site safety, including the transportation, use, and handling of explosives."¹⁶ We conclude that this provision of the Blasting Plan will ensure compliance with Condition 25 of the Amended CPG, which states, "All blasting shall be carried out by licensed and certified blasting technicians."

Regarding the use of blasting mats, previous Board decisions on wind projects have approved blasting plans that state that blasting mats will be used as needed or when blasting in close proximity to structures, with placement and number of mats to be determined by the

13. Department filing of 6/5/15.

14. Deerfield filing of 7/31/15, Attachment at 5.

15. Deerfield filing of 7/31/15, Attachment at 3.

16. Deerfield filing of 5/1/15, Attachment 2 at 3.

blaster in a manner so as to protect all people and structures on, or surrounding, the blast site property.¹⁷

The Department did not provide specific concerns with respect to effective use of blast mats for this Project. Rather, the Department stated that the plan "should articulate the specific conditions under which blast mats will be used to mitigate or prevent flyrock hitting structures and landing on any property abutting the blast site."¹⁸ Deerfield's response was to propose that the Blasting Plan be amended to state that "blasting mats will be employed when blasting within 500 feet of nearby structures, roadways and other sensitive areas." Deerfield has not provided substantiation for use of a 500-foot setback from structures for use of blasting mats; it is possible there are other situations where mats would be a useful precautionary measure. Therefore, we require that the Blasting Plan be revised as follows to account for this possibility: "The blasting mats will be employed when blasting within 500 feet of nearby structures, roadways, and other sensitive areas, as well as in other circumstances deemed appropriate by the blaster to protect people, structures, roadways, and sensitive areas located around the blast sites."

WAG commented on the Blasting Plan in filings dated May 18, 2015, and September 24, 2015. WAG provided a lengthy list of alleged deficiencies in the plan, summarized as follows:

1. The plan was not prepared by a licensed professional engineer as required in the Final Environmental Impact Statement ("FEIS").
2. The plan does not include pre-blast surveys.
3. The plan does not provide a map identifying anticipated blast areas.
4. The plan does not include an itemization of the type and quantity of explosives to be used.
5. The plan contains a sample blast report that is not site-specific.

17. *Petition of Georgia Mountain Community Wind*, Docket 7508, Order of 6/11/10 at 89; *Petition of Green Mountain Power Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., and Vermont Transco, LLC*, Docket 7628, Order re Amended Blasting Plan of 7/29/11 and Amended Blasting Plan of 7/26/11 at 4

18. Department filing of 6/5/15 at 1.

6. The plan is inconsistent regarding who will perform and/or monitor blasting activities and does not comply with the Amended CPG in requiring that all blasting be carried out by licensed and certified blasting technicians.
7. The plan is unclear on how public access will be restricted.
8. The plan does not clearly show whether the 1,000-foot safety zone extends onto private property and if so, whether permission was therefore obtained.
9. The plan lacks details on whether and how blast reports will be made available to the public.
10. The plan should require use of blast mats at all times.
11. The plan should incorporate a one-mile radius for pre- and post-blast surveys of structures and wells.
12. The plan should provide pre- and post-blast radon testing for all homeowners.
13. The plan should incorporate Act 250 blasting protocols because the Project is situated above 2500 feet in elevation.

WAG's filing dated May 18, 2015, includes an attachment from the District Environmental Commission #1 in Rutland, Vermont, with information on Act 250 review of requirements for blasting projects in Rutland County.¹⁹ WAG also recommended that a one-mile radius be used for pre- and post-blast surveys of structures and wells.

Mr. Shea provided comments on the Blasting Plan in a filing dated June 3, 2015, stating that the plan was based on generic blasting procedures and does not constitute a "blasting plan," and that Deerfield's one-week advance notice to property owners about the public meetings, and lack of notification via e-mail, provides insufficient time for property owners to make arrangements to attend the meetings.

Deerfield responded that WAG and Mr. Shea have requested a level of detail not previously required by the Board and that exceeds the requirements contained in Condition 26 of the Amended CPG, which are fully addressed in the plan.²⁰ Deerfield stated that the purpose

19. WAG filing of 5/18/15 at Attachment.

20. Deerfield filing of 6/15/15 at 4.

of the Blasting Plan is not to provide the dates and times of every blasting event, but to provide an outline of the measures that will be taken to ensure that blasting is conducted safely and causes as little disruption as possible.

Deerfield also stated that requiring use of blasting mats at all times is not reasonable given that details of each specific blasting event will be evaluated by the blasting technicians based on a number of factors, and additionally is not required by Condition 25 of the Amended CPG, which states that blasting mats "will be used where needed to limit the occurrence of flyrock."

Deerfield has agreed to incorporate into its Blasting Plan the Agency of Natural Resources ("ANR") Best Management Practices ("BMPs") for Blasting to Avoid Environmental Contamination; these BMPs are intended to reduce the potential for releases of contaminants to soil and groundwater from blasting activities.²¹ The BMPs will help ensure that blasting will not contribute to water pollution in accordance with the incorporated criterion of Section 248(b)(5) (10 V.S.A. 6086(a)(1)). We accept Deerfield's proposed change to the Blasting Plan and require that the BMPs be incorporated into the final Blasting Plan for the Project.

We agree with Deerfield regarding the purpose of the Blasting Plan and the level of detail in the plan, and note that the Blasting Plan states, "Blasting will occur only as set forth in the blasting schedule, except in emergency situations, such as electrical storms or where public safety requires an unscheduled detonation."²² We direct Deerfield to modify the plan such that it will specify that the blasting schedule, and any subsequent changes to the schedule, will be provided to property owners within a one-half-mile radius of the blasting site at least one week prior to commencement of blasting activities. The purpose of this requirement is so that property owners are generally aware of when blasting activities are going to occur; this is consistent with previous Board orders in cases involving large-scale wind projects.²³ We also direct Deerfield to

21. Deerfield filing of 6/15/15 at Attachment.

22. Deerfield filing of 5/1/15, Attachment 2 at 2.

23. The Georgia Mountain Community Wind, LLC, (Docket 7508) Blasting Plan required the Petitioner to notify landowners within an appropriate radius of the Project in advance of any rock blasting; the Kingdom Community Wind (Docket 7628) Blasting Plan prohibited blasting at times different than those announced in the blasting schedule except in emergency situations.

provide two weeks' advance notice to property owners about public meetings related to blasting to provide adequate time for property owners to arrange to attend the meetings.

We find that requiring blasting mats to be used at all times during blasting is not reasonable. Decisions regarding the use of blasting mats are the responsibility of the blasters, to be determined in accordance with applicable laws, regulations, and guidance, and so as to ensure the safety of people and structures. As discussed above, in response to Department comments, Deerfield has agreed to revise the Blasting Plan to indicate that blasting mats will be used within 500 feet of structures, roadways, and sensitive areas. We will require that the Blasting Plan be revised further to indicate that use of blasting mats could also be appropriate in other circumstances, to be determined by the blasters.

Regarding WAG's recommendation that a one-mile radius be used for pre- and post-blast surveys of structures and wells, the use of a one-half-mile radius is consistent with previous Board decisions and is more conservative (i.e., encompasses a larger, potentially affected area surrounding the blast site) than the Regional State of Vermont District Environmental Commission #1 radius of 1,500 feet for pre-blast surveys applied in its Act 250 reviews.²⁴ WAG has not provided grounds supporting the use of a one-mile radius, and therefore, the Board concurs with the one-half mile radius in the current Blasting Plan.

In regard to the remaining comments on the Blasting Plan raised by WAG, we conclude that the revised Blasting Plan contains sufficient detail, consistent with other projects that require blasting, to ensure that blasting activities will be managed by competent individuals and will not pose undue risks to public safety and the natural environment.

In summary, the Board requires that Deerfield file a revised Blasting Plan, signed by a licensed, certified blasting technician, with the following revisions and additions: (a) addition of clarifying text regarding the use of blast mats described above; (b) a modification to the plan to indicate that the blasting schedule, and any subsequent changes to the schedule, will be provided to property owners within a one-half-mile radius of the blasting site, at least one week prior to commencement of blasting activities; (c) an increase in the time for advance notification to

24. WAG filing of 5/18/15 at Attachment.

property owners of the public meetings from one week to two weeks; and (d) the incorporation of the ANR blasting BMPs into the Plan.

3. Stormwater Permits

Condition 17 of the Amended CPG states:

Deerfield shall submit to the Board and parties its NPDES Permit for Construction Sites for the Project prior to the commencement of earth-disturbing construction activities.

Condition 18 of the Amended CPG states:

Deerfield shall submit to the Board and parties its Vermont operational phase stormwater permit prior to the creation of any impervious surfaces at the site.

Deerfield provided copies of the Individual Construction Stormwater Discharge Permit²⁵ and the operational phase Discharge Permit²⁶ in its May 1, 2015, filing. The construction stormwater permit references an approved Erosion Prevention and Sediment Control ("EPSC") Plan, which was not provided to the Board.

The operational phase Discharge Permit authorizes a total of 22 discharge locations with stormwater features including stabilized outfalls, culverts, vegetated buffers, swales, level spreaders, overland flow, and sediment forebays. The permit refers to the approved project design plans, detail sheets, and application materials submitted on March 4, 2011, with final revisions submitted on February 5, 2013. ANR, WAG, and Mr. Shea provided comments on the stormwater permit submittals.

ANR commented on June 19, 2015,²⁷ in response to the June 1, 2015, construction plans submitted by Deerfield²⁸ (discussed below), stating that the construction plans are consistent with the stormwater plans that are the basis of the stormwater permits issued by ANR. Therefore, ANR maintains that the EPSC Plan and the operational stormwater controls

25. Deerfield filing of 5/1/15, Attachment 3.

26. Deerfield filing of 5/1/15, Attachment 4.

27. ANR filing of 6/19/15 at 1.

28. Deerfield filing of 6/1/15.

referenced in the permits are in conformance with the information contained in the construction plans filed by Deerfield on June 1, 2015.

WAG provided comments on the stormwater permits in its filing dated June 15, 2015.²⁹ WAG stated that similar low-impact stormwater treatment practices have been constructed at other wind energy facilities in Vermont and recommended that their performance at these sites be evaluated prior to use at the Deerfield site. WAG's comments referred to a video provided as Exhibit A that shows eroding slopes at the Kingdom Community Wind Facility in September 2013, one year post-construction. WAG stated that the video shows a location where a wet pond and level spreader installed at the Kingdom Community Wind Facility were failing to prevent channelization of flows and associated sediment transport to down-gradient streams. WAG recommended that the Board complete an investigation of why stormwater features failed at the Kingdom Community Wind facility and what actions were taken to correct it, and use the information to inform the Deerfield decision.

Mr. Shea provided comments on the stormwater permits in his filing dated June 3, 2015,³⁰ in which he requested supporting documentation from Deerfield regarding paragraph 11 of Permit #6584-INDS and did not receive a reply. Mr. Shea stated that it is not possible to evaluate the filing without the complete document.

Deerfield responded to comments in a filing dated June 15, 2015.³¹ Deerfield stated that WAG's comments were filed past the extended comment deadline of June 5, 2015, the date by which comments were required to be hand-delivered to the Board in hard copy to be considered timely; therefore, the Board should reject the comments as untimely. In the event the Board nonetheless were to consider the comments, Deerfield argued that WAG's comments did not provide any basis for finding non-compliance with Condition 18 of the Amended CPG. Deerfield claims that Condition 18 does not make any provision for comment by other parties, that by filing the permit it has wholly complied with the condition, and that the condition provides for no further review.

29. WAG filing of 6/15/15.

30. Shea filing of 6/3/15 at 2.

31. Deerfield filing of 6/15/15.

Deerfield's response indicated that the stormwater permit appeal of the Kingdom Community Wind facility was considered by the Board in 2011, when the Board conducted an investigation and concluded that the stormwater practices at the site met the relevant regulatory requirements and were protective of water quality, and furthermore, that the Board's decision was upheld by the Vermont Supreme Court. Deerfield states that the adequacy of the stormwater permit for another project should not be considered in any manner in Deerfield's post-CPG review.

In response to Mr. Shea, Deerfield stated that the information he requested consists of permit application materials that are incorporated by reference into the permit, that the materials are voluminous (over 500 pages) and contain many oversized plans (25 plans 24" by 36" or larger), that producing copies for Mr. Shea and other parties would exceed the requirements of CPG Condition 18 and would involve unreasonable expense, and that the materials are part of the public record and can be obtained directly from ANR.

In regard to Deerfield's compliance with Condition 17 of the Amended CPG, Deerfield filed a copy of the NPDES construction permit but not the final EPSC Plan referenced in the permit. The permit states that it includes the requirement to implement the authorized, site-specific EPSC Plan, and that the permit only applies to construction activities performed in accordance with the approved EPSC Plan.³² Accordingly, the EPSC Plan is part of the NPDES construction permit and we require that Deerfield submit a copy to the Board for review.

Similarly, in regard to Condition 18 of the Amended CPG, Deerfield provided a copy of the operational phase NPDES permit,³³ and the project engineers, Vanasse Hangen Brustlin, Inc. ("VHB"), provided a description of the stormwater revisions,³⁴ revised design plans depicting locations and technical specifications for stormwater features,³⁵ and comparison of original and revised design drawings, including the stormwater features.³⁶ However, the NPDES permit states the following regarding the approved project design: "This project shall be constructed and

32. Deerfield filing of 6/1/15 at Attachment 3.

33. Deerfield filing of 5/1/15 at Attachment 4.

34. Deerfield filing of 6/1/15 at Attachment 8.

35. Deerfield filing of 6/1/15 at Attachment 3.

36. Deerfield filing of 6/1/15 at Attachment 5.

operated in accordance with the following site plans, detail sheets, and all application materials and supporting information prepared by" the Project engineers, followed by a list of the applicable operational stormwater plans, and that, "By reference, all of the above-noted plans, detail sheets and all application materials and supporting information prepared by [the Project engineers with specified dates] are made a part of this permit."³⁷

Because the above-referenced plans and application materials have been made part of the NPDES permit, and provide more detail on the operational phase stormwater design than provided in Deerfield's filings to date in this proceeding, we require Deerfield to file a copy of them with the Board, and to provide a copy of them to Mr. Shea. Mr. Shea shall have two weeks to review the permit materials and to provide comments to the Board.

The revisions to stormwater features included small adjustments to the locations of four sedimentation basins, and replacement of 26 previously proposed sedimentation basins with low-impact stormwater features including swales and level spreaders; this reduces the total number of proposed sedimentation basins from 35 to 9. VHB indicated that the revised stormwater design better fits site topography and results in an overall reduction in the amount of disturbed area.³⁸ Low-impact stormwater features, referred to as "Green Stormwater Infrastructure" by the Vermont Department of Conservation Watershed Management Division, provide an alternative to conventional stormwater techniques that more closely mimic natural processes, maximize infiltration of runoff, control runoff closer to sources, and maintain more vegetated and less armored surfaces.³⁹ These benefits are intended to maintain adequate protection of water quality while minimizing site disturbance and therefore are compatible with the intent of criteria at 248(b)(5) pertaining to water pollution and soil erosion. At this time, the revised design plans appear to adequately depict the location of the proposed stormwater features. The revisions to the plans have resulted in a net decrease in limits of site disturbance and clearing required for the Project, which is consistent with the overall goals of implementing such measures. We will make a final determination on whether the revised stormwater features are acceptable after we

37. Deerfield filing of 5/1/15 Attachment 4 at 5 - 6.

38. Deerfield filing of 6/1/15, Attachment 8 at 2.

39. Vermont Department of Conservation website at http://www.watershedmanagement.vt.gov/stormwater/htm/sw_green_infrastructure.htm.

have had an opportunity to review the operational stormwater details addressed in the requested permit materials to be filed by Deerfield.

Regarding the performance and monitoring of the stormwater features, the NPDES permit requires Deerfield to maintain the stormwater features in good operating condition at all times, to conduct annual inspections and reporting to ANR, to implement any necessary maintenance to ensure that design specifications are maintained, and to implement the approved monitoring plan starting one year post-construction.⁴⁰ Required monitoring includes conducting periodic inspections, recording weather data and flow measurements, monitoring/calculating flow-weighted data analysis of stormwater treatment removal efficiencies for total suspended solids ("TSS") and total phosphorous, and providing a narrative summarizing results. The permit requires 80% removal of average annual post-development TSS load and 40% removal of total phosphorous load. If the performance standards are not met, Deerfield must work with ANR to address any deficiencies. Therefore, there are permit mechanisms in place to monitor and evaluate the performance of the stormwater controls and to repair or replace them if needed.

In summary, we have reserved our determination regarding compliance with Condition 17 of the Amended CPG and require that Deerfield file a copy of the final EPSC plan. We have also reserved our determination regarding compliance with Condition 18 of the Amended CPG and require Deerfield to file a copy of all permit materials, including the operational stormwater plans and application materials referenced in the permit. Deerfield shall provide a copy of the operational stormwater permit materials to Mr. Shea, who shall have two weeks to file comments with the Board on the operational stormwater permit.

The June 1, 2015, Compliance Filing

Deerfield's June 1, 2015, compliance filing included the final design plans for the Project with a summary of Project changes incorporated into the final design, the construction schedule plan, and analysis of the effects of Project changes on natural resources, sound modeling, aesthetics, and shadow flicker.

40. Deerfield filing of 5/1/15, Attachment 4 at 7.

WAG provided comments in filings dated July 1, 2015, and September 24, 2015, on the effect of Project revisions on aesthetics and sound. The Department filed comments on June 30, 2015, stating it had no comments on the final design plans.⁴¹ ANR filed comments on June 19, 2015, regarding the effects of the Project revisions on natural resources.⁴² The following sections provide a summary of comments, Deerfield's responses, and our determinations, addressing overall design plan changes, the construction schedule, and the implications of the design plan changes on natural resources, sound, aesthetics, and shadow flicker.

1. The Final Design Plans

Condition 2 of the Amended CPG states:

Prior to proceeding with construction, Deerfield shall file, for Board approval, final construction plans for the turbines, access roads, collector lines, and substation. Deerfield shall note any changes in the final plans from the plans approved by this Order.

The final design plans filed on June 1, 2015, reflect several changes throughout the Project. Deerfield summarized the changes as follows:

Turbine Selection

Deerfield has revised the assemblage of turbines to be installed as follows: the original plan was to install five Gamesa G80 and two Gamesa G87 turbines on the east ridge, and eight Gamesa G87 turbines on the west ridge. The revised plan is to install seven G87 turbines on the east ridge and eight G97 turbines on the west ridge.⁴³

The G80 turbines are 387 feet tall, G87 turbines are 399 feet tall, and the G97 turbines are 415 feet tall.⁴⁴ The revised configuration results in an increase of total turbine height of 12 feet for five of the seven turbines on the east ridge, and an increase of total turbine height of 16 feet for all eight turbines on the west ridge.

Changes in total turbine height are discussed in regard to wildlife impacts, aesthetic impacts and sound modeling.

41. Department filing of 6/30/15 at 1.

42. ANR filing of 6/19/15 at 1.

43. Deerfield filing of 6/1/15 at 2.

44. Deerfield filing of 6/1/15, Attachment 1 at 1.

Elimination of Measurement Tower

The original project approved by the Board's Order included installation of a permanent measurement tower that would replace two temporary measurement towers at the site.⁴⁵ The permanent tower has been eliminated from the final design plans and will be replaced with two ground-mounted LiDAR [Light Detection and Ranging] stations, one on the east ridge near turbine E-04, and one on the west ridge near turbine W-02. The station to be located near turbine W-02 requires an extension of the ridge road of approximately 550 feet to access the station location.⁴⁶

Turbine Relocation

The pad location for turbine E-02 has been moved approximately 50 feet west in conjunction with relocation of the access road. The remaining turbine pad locations have not been changed. However, each turbine has been micro-sited within each pad to center the turbines, with tower location adjustments up to 75 feet.

Road Realignments

The proposed access road was revised to better follow the existing Green Mountain Power access road, eliminate unnecessary switchbacks, reduce wetland impacts, and align with the substation access drive. The access road at the intersection of Sleepy Hollow Road and Route 8 was redesigned to improve the intersection, and a bridged wetland crossing was added to reduce wetland fill.

Stormwater Revisions

The original design relied upon sedimentation basins for the majority of stormwater control locations; 26 of them have been replaced with lower impact stormwater features such as swales and level spreaders to better fit site topography and reduce disturbance areas.⁴⁷ Evaluation of impacts from the revised stormwater features is provided in the stormwater permit discussion pertaining to the filing of May 1, 2015, above.

Expansion of Operations and Maintenance Area

The Operations and Maintenance Area has been expanded to accommodate a larger staging area, parking area, and surrounding fencing. The building size is 4,000 square feet, which is the same size as included in the original plans.

45. Order of 04/19/09 at 12.

46. Deerfield filing of 6/1/15, Attachment 8 at 2.

47. Deerfield filing of 6/1/15, Attachment 1 at 5 and Attachment 8.

Net Effect of Revisions

The net effect of the revisions to road layout, turbine E-01 location, operations and maintenance area, stormwater features, and replacement of the measurement tower with LiDAR stations, is a reduction of 7.5 acres in clearing limits (79.5 acres decreased to 72 acres to be cleared), reduction of 3,341 square feet of direct wetland impacts (5,920 square feet reduced to 2,579 square feet to be filled), decrease of 14 bear-scarred beech trees to be removed (increase of 4 trees and decrease of 18 trees to be removed), and a reduction of 2.9 acres of total bear-scarred beech habitat impacts (35.8 acres decreased to 32.9 acres disturbed).⁴⁸

2. Construction Schedule

Condition 41 of the Amended CPG states:

Deerfield shall file a plan for approval by the Board that addresses the hours of the days and days of the week when construction will take place, any limitations on the timing of construction activities that are expected to produce significant noise, and any plans to mitigate the noise of such activities.

Deerfield filed a construction schedule plan containing practices to be followed to mitigate construction sound.⁴⁹ The plan specifies that construction will occur Monday through Saturday between the hours of 7:00 A.M. and 7:00 P.M., with the exception of minor construction activities that may need to extend earlier or later. The plan also states that the extent of exposed or disturbed areas on the Project site at any one time will be minimized in accordance with the construction NPDES permit, posted speed limits on access roads will be 25 m.p.h. or less, construction equipment with engines will have functional mufflers in good condition, and operational measures, such as limiting engine idle time and shutting down equipment when not in use, will be implemented. The plan also states that limits on blasting and oversized vehicle transits will be as specified in the Blasting Plan and the Vermont Agency of Transportation permit, respectively.

48. Deerfield filing of 6/1/15, Attachment 8 at 4.

49. Deerfield filing of 6/1/15 at Attachment 7.

The Department's filing of June 30, 2015, stated that it had no comments on the construction scheduling plan.⁵⁰ No other comments were filed on the construction schedule. We therefore approve the construction schedule.

3. Project Changes and Aesthetics

Deerfield's aesthetics witness, landscape architect Jean Vissering ("Ms. Vissering"), compared the original and final design plans with regard to impacts on aesthetics, and provided revised visual simulations of the turbine views from various surrounding locations that incorporated the revised turbine heights.⁵¹ Ms. Vissering's analysis of the aesthetic impacts of final design changes considered road realignments, change in turbine models and associated changes in total turbine height, replacement of the meteorological tower with two land-based LiDAR⁵² systems, and changes in the total area to be cleared, stormwater management features, the size of the operations and maintenance building, and the location of the substation. Ms. Vissering concluded that changes reflected in the revised design plans generally reduce visibility of the Project from surrounding areas based on an overall reduction in limits of clearing, or consist of minor changes that will not affect views of the Project from nearby roads or from other potential vantage points. Ms. Vissering stated that the longer turbine blades, up to 16 feet longer than in the initial proposal, will result in visual changes that are imperceptible to the average person. She concluded that the revised design plans result in no increase in visual impacts, and that visual impacts overall are likely to be reduced.

WAG commented on aesthetic impacts of the final design plans in its filing dated July 1, 2015. WAG's comments included considerable detail about the design modifications near existing roads, including the west access road and expanded operations and maintenance area at Route 8, and the east access road at Route 8 and Sleepy Hollow Road. WAG stated that the access roads will alter the character and views along existing town roads, at the cemetery at Sleepy Hollow Road, and for an adjacent property owner. WAG indicated that the revegetation

50. Department filing of 6/30/15 at 1.

51. Deerfield filing of 6/1/15 at Attachment 12.

52. LiDAR is an acronym for "light detection and ranging," a remote sensing technology.

and landscaping plan required by the CPG has not been filed yet, and may address some of these concerns.

Regarding the longer turbine blades, WAG stated that the revised visual simulations make the turbines with longer blades appear *less* visible, and questioned the credibility of the preparers of the visual impact assessment and visual simulations.

Deerfield responded to WAG's concerns in its filing dated July 31, 2015, stating that WAG does not provide support for its claim of visual impacts on adjoining landowners, and that WAG has no standing to assert an individual property owner's interests or to raise arguments on behalf of the Town regarding impacts on town roads.⁵³ Deerfield stated that it has developed agreements with the Town of Searsburg regarding infrastructure and that the Town has the right to review and approve all Project elements that affect town roads.⁵⁴ Deerfield stated that WAG's comments about adverse aesthetic impacts on the cemetery are unsupported and ignore revisions that have reduced Project impacts in the vicinity.

Additionally, Deerfield stated that the original visual simulations used black turbine blades, while the revised simulations used white blades, which reduce the visual appearance of the structures. Deerfield stated that the simulations reflect the correct Project layout and provide confirmation that the visual effects of Project revisions are undetectable. Deerfield concludes that WAG has failed to raise a significant issue regarding the simulations.⁵⁵

On balance, we find that the Project revisions, including the 12- to 16-foot increase in turbine height, are not of such material nature as to alter our previous conclusion that the Project will not have an undue adverse aesthetic effect. Therefore, we conclude that the final design plans do not raise any significant issues with respect to aesthetics. We will review the revegetation and landscaping plan when it is submitted in accordance with Condition 34 of the Amended CPG and retain our jurisdiction to order any additional landscaping mitigation we deem to be appropriate.

53. Deerfield filing of 7/31/15 at 3.

54. Deerfield filing of 7/31/15 at 4.

55. Deerfield filing of 7/31/15 at 5 - 6.

4. Project Changes and Natural Resource Impacts

Deerfield's environmental consultants prepared supplemental reports assessing the potential natural resource impacts from the changes reflected in the final design plans. The consultants concluded that the changes in the final design plans resulted in either the same level of impacts on natural resources, or in some instances, a reduction of the impacts previously identified, when compared to the plans filed with the initial petition.

The only comments received regarding natural resource impacts related to the design changes were filed by ANR. ANR's comments stated that the final design plans do not raise any new concerns regarding necessary wildlife habitat, rare or irreplaceable natural areas, or threatened and endangered species, and that the project revisions reduce impacts to wetlands.⁵⁶

As described above in the summary of Net Effects of Revisions, the final design plans incorporate changes that decrease the extent of the Project's clearing requirements, wetland impacts, removal of bear-scarred beech trees, and affected acreage of bear-scarred beech habitat when compared to the plans filed with the initial petition.

Deerfield's environmental consultant, Arrowwood Environmental ("Arrowwood"), compared the impacts from the initial and final design plans and concluded there would be: (1) no change in impacts on necessary habitat for white-tailed deer, (2) a greater distance between the access road and moose wintering habitat, and (c) a reduction in impacts on bear habitat. Arrowwood also determined there would be no adverse impact from the final design plans on small mammals, protected plant species, protected wildlife (with the exception of birds and bats), and rare or irreplaceable natural areas.⁵⁷

Stantec, Deerfield's environmental consultant regarding birds and bats, compared the initial and final design plans with regard to impacts on necessary wildlife habitat for birds and on migrating and resident birds and bats. Results of the comparison indicate that the final design plans will not alter the Board's original conclusions that the Project will not have undue adverse

56. ANR filing of 6/19/15.

57. Deerfield filing of 6/1/15 at Attachment 9.

impacts on birds and bats, or on essential wildlife habitat for birds, protected bird species, or migrating or resident birds and bats.⁵⁸

Based on our review of Deerfield's reports and ANR's comments, we conclude that the revisions incorporated into the final design plans do not raise any significant issues with respect to natural resources.

5. Project Changes and Sound Impacts

Deerfield's sound consultant, RSG, repeated its sound propagation model for the Project using the new turbine configuration to determine if the project in its final design complies with the sound standard specified in Condition 28 of the Amended CPG.⁵⁹ The results of this analysis indicated that the highest combined sound level (i.e., existing Searsburg turbines and proposed Deerfield turbines operating together) at the closest residence would be 43 dBA(Leq)(exterior)(1 hour). This is an increase of no more than 1 dBA over the maximum sound level predicted with the original configuration and is less than the sound standard of 45 dBA established in the Amended CPG. The modeling used sound power levels of 106 and 108 dBA, respectively, for the G87 and G97 turbines.⁶⁰

WAG provided comments on the effects of larger turbines on sound modeling results in its filings dated May 18, 2015, July 1, 2015, and September 24, 2015. WAG noted that the Project will operate close to the limits of the sound standard and urged the Board to use care in evaluating Project changes.⁶¹ WAG stated that the original and revised sound studies used two different rated sound levels for the G87 turbine (107.5 dBA and 104 dBA, respectively), which WAG contends would result in different sound modeling results. Accordingly, WAG questioned the sound modeling results using the revised turbine array.⁶²

WAG stated that the G80 turbine model is still available, contrary to Deerfield's statement that the change in turbine configuration was partly due to the lack of availability of the

58. Deerfield filing of 6/1/15 at Attachment 10.

59. Deerfield filing of 6/1/15 at Attachment 11b.

60. Deerfield filing of 6/1/15, Attachment 11b at 7.

61. WAG filing of 5/18/15 at 2.

62. WAG filing of 7/1/15 at 2.

G80 model. WAG argued that a technical hearing is needed to provide the opportunity for a complete and comprehensive evaluation of the revised modeling and examination of the effects of the revised configuration on sound levels.⁶³

Deerfield responded to WAG's comments on the sound modeling in its filing dated July 31, 2015. Deerfield indicated that RSG's pre-filed testimony indicated that the G87 turbines have a sound power level of no more than 107.5 dBA, but that the current version of the G87 has a sound power rating of no more than 104.3 dBA; the G87s were conservatively modeled at 106.3 dBA to account for any margin of error.⁶⁴ Deerfield stated that WAG failed to raise any significant issues with regard to sound, that its comments pertain to the credibility of Deerfield's sound expert, and that Condition 30 of the Amended CPG requires post-construction sound monitoring to ensure that the sound standards are met by the Project.⁶⁵ Based on this, Deerfield contends that WAG failed to raise a significant issue with regard to sound.

We conclude that the results of sound modeling with the revised, longer turbine blades, incorporating a 2 dBA margin of error, indicated that the sound level will not exceed 45 dBA (exterior)(Leq)(1 hr) at any nearby residences, which is in compliance with the requirement of Condition 28 of the Amended CPG concerning Project-related sound levels. Accordingly, we conclude that the changes reflected in the final design plans do not raise a significant issue with respect to sound and have determined that WAG has failed to demonstrate that additional process is warranted. We stress that the Project must meet the Board-imposed sound standards of 45 dBA (exterior)(Leq)(1 hr) or 30 dBA (interior bedrooms)(Leq)(1 hr) during operation or Deerfield will have to make operational adjustments to ensure that it does. Failure to meet the standard would be a violation of Condition 28 of the Amended CPG, and would invoke the compliance requirements of Condition 29, which states:

"In the event noise from operation of the Project exceeds the maximum allowable levels, Deerfield shall take all remedial steps necessary to bring the sound levels produced by the turbine(s) into compliance with allowable levels, including modification or cessation of turbine(s) operation."

63. WAG filing of 9/24/15 at 3.

64. Deerfield filing of 7/31/15 at 2.

65. Deerfield filing of 7/31/15 at 2 - 3.

Additionally, the Amended CPG requires Deerfield to submit a sound monitoring plan for Board review and approval (Condition 30 of the Amended CPG). Required elements of the plan include a monitoring program to be implemented during the first full year of operation to ensure compliance with the maximum allowable sound standards and protocols that Deerfield will implement in the event there are complaints that the Project is exceeding the sound standards.

6. Project Changes and Shadow Flicker

Condition 39 of the Amended CPG states:

Shadow flicker from the Project shall be limited to the amount specified in exhibit DFLD-JZ-31. Deerfield shall file a protocol that it will implement in the event complaints are received that the Project is exceeding the allowable amount of shadow flicker (including, if appropriate, monitoring at the affected locations.)

Deerfield's shadow flicker consultant, John Zimmerman, provided a comparison of shadow flicker projected by the initial and final design plans,⁶⁶ including figures depicting the shadow flicker zones with and without vegetation as considered in the modeling for the final design plan, and a table comparing hours of shadow flicker per year for a receptor located along Route 8 (designated point "A," located just east of Route 8, due east of west ridge turbine 8, the southern-most turbine on the west ridge). Mr. Zimmerman stated that, subject to the screening effects of vegetation that were considered, there would be no shadow flicker experienced at the receptor location under either the original or revised Project configuration. With the vegetative screening effects excluded, there would be an increase in cumulative shadow flicker from 1.7 hours per year to 2.0 hours per year at receptor location "A." Mr. Zimmerman contends that the increase would be considered negligible and below industry best practices.⁶⁷ He stated that overall, the modified design plans resulted in negligible increases in shadow flicker effect, that the impact would remain much lower than industry best practices, and therefore, that the Project would not have an undue adverse impact due to shadow flicker.

66. Deerfield filing of 6/1/15 at Attachment 13.

67. Deerfield filing of 6/1/15, Attachment 13b at 2.

Comparisons of the shadow flicker maps in the original (Exhibit DFLD-JZ-31) and revised design plan⁶⁸ indicate that generally the same number of residences would be affected by shadow flicker under either scenario (approximately 66 residences). Based on the calculations provided for receptor location "A" and comparisons of the original and revised design plans' color-shaded figures, it appears there would be small changes in the extent and duration of shadow flicker at residences within about a mile of the west ridge turbines. This increase in shadow flicker effect as a result of the final design plan does not result in a substantive change from the perspective of determining compliance with Condition 39 of the CPG. Therefore, although the impacts from shadow flicker have increased slightly from the original plan, the increase does not alter our original determination that there would not be undue adverse impacts from shadow flicker associated with the Project.

CONCLUSION

We have reviewed the compliance filings made by Deerfield on May 1, 2015, and we are deferring our ruling on these filings at this time. We will issue our final ruling on these Compliance filings following review of the information indicated below.

1. FAA Determinations

The Board directs Deerfield to clarify with the FAA whether reanalysis for the FAA Determinations for the turbines is required based on turbine micro-siting and/or based on the revised turbine heights. Deerfield shall file confirmation of FAA's determination on the need for reanalysis with the Board, and if appropriate, shall provide final, revised FAA Determinations for the final turbine configuration when received, in order to comply with Condition 33 of the Amended CPG.

2. Blasting Plan

The Board directs Deerfield to file a revised Blasting Plan, signed by a licensed, certified blasting technician, with the following revisions and additions in order to comply with Condition 26 of

68. Deerfield filing of 6/1/15, Attachment 13b.

the Amended CPG, as well as blasting-related requirements in Conditions 24, 25, and 27 of the Amended CPG:

(a) The Blasting Plan shall be revised by clarifying the text regarding the use of blast mats as follows:

"The blasting mats will be employed when blasting within 500 feet of nearby structures, roadways and other sensitive areas, as well as in other circumstances deemed appropriate by the blaster to protect people, structures, roadways, and sensitive areas located around the blast sites."

(b) The Blasting Plan shall be modified to indicate that the blasting schedule, and any subsequent changes to the schedule, will be provided to property owners within a one-half-mile radius of the blasting site, at least one week prior to commencement of blasting activities.

(c) The Blasting Plan shall be modified by increasing the time for advance notification to property owners of the public meetings from one week to two weeks.

(d) The Blasting Plan shall be modified by incorporating the ANR blasting BMPs into the Plan.

3. Stormwater Permits

The Board directs Deerfield to file the EPSC Plan as part of the NPDES construction permit for Board review in order to comply with Condition 17 of the Amended CPG. The Board also directs Deerfield to file copies of the site plans, detail sheets, and all application materials and supporting information incorporated by reference in the operational phase NPDES permit. Deerfield shall also provide a copy of these permit materials to Mr. Shea, who shall have two weeks to review the information and to provide comments to the Board.

We have reviewed and accepted the compliance filings made by Deerfield on June 1, 2015, and approve the final design plans (required by Condition 2 of the Amended CPG) and the construction scheduling plan (required by Condition 41 of the Amended CPG).

SO ORDERED.

Dated at Montpelier, Vermont, this 8th day of January, 2016.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/Margaret Cheney</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/Sarah Hofmann</u>	)	

OFFICE OF THE CLERK

FILED: January 8, 2016

ATTEST: s/Judith C. Whitney
Acting Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.