

2011 JUN 14 PM 3:28

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Petition of Green Mountain Power Corporation,)
 Vermont Electric Cooperative, Inc., and Vermont)
 Electric Power Company, Inc., for a certificate of public)
 good, pursuant to 30 V.S.A. Section 248, to construct up)
 to a 63 MW wind electric generation facility and) Docket No. 7628
 associated facilities on Lowell Mountain in Lowell,)
 Vermont, and the installation or upgrade of)
 Approximately 16.9 miles of transmission line and)
 Associated substations in Lowell, Westfield and Jay, Vermont)

**GMP'S MOTION FOR RECONSIDERATION
OF CONDITIONS 12, 17, 19, 28, AND 20**

Pursuant to Board Rule 2.206 and V.R.C.P. 59(e), Petitioner Green Mountain Power Corporation ("GMP") hereby moves the Vermont Public Service Board ("Board") for reconsideration of five conditions to its May 31, 2011 Order ("Order") in the above-captioned matter. In particular, GMP requests that the Board:

1. Modify Conditions 12 (provision of specialized first responder equipment), 17 (fragmentation easement), 19 (System Impact Study filing) and 28 (completed archeological studies), only to the extent that compliance is required prior to commencement of construction; and
2. Delete Condition 20 (implementation of all upgrades required by Feasibility Study).

In support, GMP submits the following Memorandum of Law.

MEMORANDUM OF LAW

Rule 59(e) codifies the Board's inherent power to "open and correct, modify or vacate its judgments." *Osborn v. Osborn*, 147 Vt. 432, 433 (1986). The purpose of the rule is to avoid an unjust result due to inadvertence of the Board. *Id.* The Vermont Supreme Court has observed that this power, while broad, "should be used with great caution." *Haven v. Ward's Estate*, 118 Vt. 499, 502 (1955). It is not intended to permit parties to simply relitigate issues or correct previous tactical decisions. *In re Cent. Vt. Pub. Serv. Corp.*, Docket Nos. 6946/6988 (Vt. Pub.

Serv. Bd. May 25, 2005) at 3. The motion must “present facts which could not, with the exercise of due diligence by counsel, have been placed before the court before the order complained of was issued.” *Id.* (quoting *Brown v. International Harvester Corp.*, 142 Vt. 140, 142-43 (1982)).

The Board has previously granted motions to reconsider in limited circumstances, such as where an order has unintended consequences unforeseen by the moving party and not contemplated by the Board at the time of the order’s entry. *In re Vermont Elec. Coop., Inc.*, Docket No. 7201 (Vt. Pub. Serv. Bd. Sept. 15, 2006) (unforeseen implications of inclusion of distribution line upgrade on methane generation 248 proceeding); *In re Green Mountain Power Corp.*, Docket No. 7035 (Vt. Pub. Serv. Bd. July 8, 2005) (unanticipated delay to construction schedule based on condition not included in stipulations with the Department of Public Service or the Agency of Natural Resources); *In re VEPP Inc.*, Docket No. 6396 (Vt. Pub. Serv. Bd. May 14, 2001) (“implications and potential unintended consequences” of order regarding VEPP’s securitization efforts).

The very narrow modifications requested by this motion reflect those limited circumstances where reconsideration is appropriate. Specifically, GMP requests that the Board: (1) modify the deadline for compliance with Conditions 12, 17, 19, and 28, and (2) delete Condition 20, because these conditions have unintended consequences, and raise new issues not previously contemplated by the Board.

I. GMP Requests That The Deadline For Compliance With Conditions 12, 17, 19, And 28 Be Modified.

GMP requests that the Board modify Conditions 12, 17, 19, and 28 as follows:

- (12) The Petitioners shall organize and conduct any necessary training for the area’s first responders, and shall provide any and all specialized equipment needed for first responders to effectively provide their services prior to the start of ~~any significant construction activities~~ activities for which the specialized equipment is needed.

....

- (17) GMP shall secure prudent fragmentation-connectivity easements of adequate size and location, pursuant to the requirements of paragraph 3.2 of the Natural Resource MOU, and file them for Board approval, ~~prior to commencing construction~~ prior to operation. Parties with standing on the issue shall have two weeks to file comments from the time any easements are filed.

....

- (19) ~~Prior to construction~~ On or before October 1, 2011, the Petitioners shall submit to the Board and parties, the final System Impact Study ("SIS") for a final determination by the Board regarding whether the SIS fully satisfies any remaining issues associated with system stability and reliability. Parties with standing on the issue will have two weeks to comment on the SIS and any required upgrades at that time. GMP, except as identified in the CVPS MOU, shall be responsible for all costs of system upgrades or changes necessary to ensure that the project does not cause adverse impacts to the transmission system. In addition, the Petitioners must obtain Board approval for any necessary upgrades identified in the SIS not already included in the CPG prior to construction of ~~the project~~ such upgrades, including any Section 248 CPGs that may be required for the upgrades.

...

- (28) ~~When the Petitioners shall have three weeks file the final design plans for the proposed project from the time that they obtain access to all archaeologically sensitive areas, whether by landowner consent or by condemnation decree, to file for Board approval a they must demonstrate~~ ion that remaining archaeological studies are completed in accordance with the results of the Phase I studies and any needed Phase II study.

GMP requests these modifications for the reasons set forth below.

A. The Construction Deadline Is Unforeseen Because No Party Proposed That Petitioners Comply With Conditions 12, 17, 19, Or 28 Prior To Commencement Of Construction.

No party proposed that Petitioners comply with Conditions 12, 17, 19, or 28 prior to commencement of construction. Condition 12 reflects the obligation in the Lowell Agreement (Exh. Pet.-RAD-1 ¶ 9(c)) that GMP provide equipment "it deems necessary for the safety and welfare of its employees at the Project site," such as equipment to climb the wind towers and to obtain access in heavy snows. Although, as the Board noted,¹ GMP agreed to provide on-site training prior to commencement of construction, it did not propose (nor does the Lowell Agreement require or the Board's findings of fact determine) that the specialized equipment must be provided prior to construction.² Similarly concerning Condition 17, as the Board found

¹ Order at 75.

² The Board's Order cites a letter from the Lowell Fire Department referencing the Lowell Agreement obligation to provide specialized equipment, but does not identify a deadline (Exh. Pet.-CP-7), and Mr. Pughe's

in its findings of fact,³ the deadline for obtaining fragmentation-connectivity easements is set forth in Section 3.2 of the ANR MOU, which requires that the easements be obtained prior to commercial operation. Exh. GMP-ANR-1, § 3.2. With respect to Condition 19, the Department of Public Service (“Department”) requested that GMP comply with the final SIS and with the GMP-DPS MOU, neither of which require review and Board approval of the SIS prior to construction. Department Brief at 11-12; Exh. GMP-DPS-1. Nor does the MOU with Central Vermont Public Service Corporation (“CVPS”) impose a deadline for its obligations, other than to implement the mitigation strategies on a timely basis to avoid adverse effects on the CVPS system. Exh. CVPS-1. Finally as to Condition 28, Dr. Knight noted, and the Board found, that not all archeological investigations had been completed due to lack of landowner permission for access, but concluded that the Project would have no undue adverse effect as long as the required studies were completed in accordance with applicable guidelines, without specifying any deadlines for completion of the work. Order at 103; Knight Reb. at 1-2; Exh. Pet.-CK-2 at 6; Exh. Pet.-CK-4 at 6.

For these reasons, the Board’s imposition of construction-related deadlines for the four conditions could not have been foreseen by GMP.

B. Compliance With Conditions 12, 17, 19, And 28 Prior To Construction Is Unnecessary, Beyond GMP’s Control And Would Have Significant Adverse Consequences.

GMP respectfully submits that requiring compliance with Conditions 12, 17, 19, and 28 prior to construction is unnecessary. For instance, the specialized equipment should be obtained prior to the activities that the equipment is intended to address, such as tower fires or access to infrastructure during heavy snow conditions. Similarly, the archeological studies should be completed before there is earth disturbance affecting the area to be analyzed. GMP has included in its final design plans the system upgrades expected to be required under the SIS, and it is unlikely that any such upgrades would constitute a substantial change from the final design plans. In any event, GMP’s proposed condition would require Board approval of any further improvements prior to construction of those improvements, which would be well before

testimony merely states that GMP typically provides first responder training before the start of a large construction project and will provide necessary equipment on an annual basis. Tr. 2-3-11 (Pughe) at 102-03, 115.

³ Order at 125.

interconnection. Castonguay Affidavit ¶¶ 5-9. It is also highly unlikely that the required system upgrades, to the extent not already included in the budget, will increase the cost of the proposed transmission improvements above the cost of alternatives. *Id.* ¶ 7. In this regard, the Board chose not to impose a preconstruction deadline for the submission of any revisions to Attachment A to the GMP-DPS MOU to facilitate a determination that the proposed transmission improvements remain least cost. Order at 162 (Condition 21). Finally, the Board-approved ANR MOU required that if GMP cannot secure a suitable fragmentation easement in proximity to the Project area, “GMP and ANR will work in good faith to enable GMP to acquire connectivity easements of comparable scale and ecological value to address connectivity in the Lowell mountain habitat block.” Exh. Pet.-GMP-ANR-1 at 9. The requirement to work in good faith, coupled with the ANR MOU deadline based on Project operation, rather than construction, underscores the fact that it is unnecessary to comply with this condition by commencement of construction. *Id.*

The Board’s Order imposes other deadlines that are specific to the activity to be addressed by the condition. These include the requirement to file (1) a Serpentine Outcrop management plan prior to construction of the transmission component, (2) the individual stormwater discharge permit (“INDS”) prior to creating any impervious surface, and (3) a new Erosion Prevention and Sediment Control Plan (“EPSC”) and construction-phase stormwater permits prior to commencing the deep-ripping and scarifying phase of decommissioning. Order at 161 (Condition 18), 163 (Conditions 29-30).

Similarly, a deadline based on commencement of construction is not needed to assure that the condition will be met. GMP will not be able to interconnect the Project if the required upgrades are not completed. Castonguay Affidavit ¶ 7. There is no possibility that the required archeological studies will not be completed in accordance with applicable requirements. Even if transmission poles for the few remaining untested areas must be located within archeological sites, at most a Phase III data recovery would require extraction and preservation of archeological artifacts, which GMP will be able to achieve once it obtains the necessary site

access.⁴ Similarly, there is no basis for a conclusion that GMP will not be able to obtain the first responder equipment.

The Board stated that the Petitioners might not be able to secure the requisite easement, relying on Mr. Sorenson's testimony. Order at 125, n. 183, citing tr. 2-24-11 (Sorenson) at 201-04. However, Mr. Sorenson merely acknowledged that the easement may be expensive for GMP to obtain, and that the risk was on GMP because it cannot operate the Project without complying with the condition. *Id.* This risk is no different than the risk GMP faces with respect to other requirements that might not be met prior to construction, such as receipt of the INDS permit, decommissioning-related EPSC, and construction-phase stormwater permits and its ability to meet the Board's noise standards. As indicated in the Pughe Affidavit, moreover, GMP has made progress in securing the fragmentation easements. Pughe Affidavit ¶¶ 8-9.

In a very similar circumstance, the Board required installation of the Object Collision Avoidance System ("OCAS") as soon as approved or, if not approved, installation of an alternative lighting mitigation plan within three months thereafter, rather than imposing a deadline of commencement of construction, even though the identified mitigation underlies the Board's finding of no undue adverse impact on the relevant Section 248 criterion. Order at 164 (Condition 34).

The requested modifications are also consistent with post-construction deadlines imposed by the Board for securing similar conditions in other cases. *E.g., Amended Petition of UPC Vermont Wind, LLC*, Docket No. 7156 (Vt. Pub. Serv. Bd. Aug. 8, 2007) at 114, ¶ 17 (no pre-construction compliance deadline for conservation easement requirement); *Amended Petition of Deerfield Wind, LLC*, Docket No. 7250 (Vt. Pub. Serv. Bd. Apr. 16, 2009) at 98 ¶ 11 (no pre-construction compliance deadline for conservation easement requirement, re-vegetation and landscape plan, or for oversized vehicle permits). These conditions reflect balancing of the need to assure the condition is met in timely manner and the need to avoid unnecessary delays in project implementation. Although the Board required preconstruction compliance with a requirement to obtain a permanent conservation easement in Georgia, the requirement applied to lands owned or controlled by the developer, who had already offered to place a temporary easement on the property. As a result, it would likely take less time to procure the required

⁴ See Vermont State Historic Preservation Office, *Guidelines for Conducting Archeology in Vermont* (2007) at 46 (Phase III goal to "[r]ecover the maximum significant cultural, environmental, methodological and interpretive information and values from the site before the site is destroyed in whole or in part").

easement. *Petition of Georgia Community Wind LLC*, Docket No. 7508 (Vt. Pub. Serv. Bd. June 11, 2010) at 11, 68.

Moreover, the Board has previously approved the commencement of construction prior to compliance of all required conditions. For instance, the Board modified a condition of a CPG and authorized construction of a landfill gas generation station prior to receipt of Act 250 approval of an associated landfill expansion, even though this condition was part of a previously-filed stipulation executed by all parties. *Joint Petition by Washington Electric Cooperative, Inc. ("WEC"), Vermont Electric Power Company, Inc. ("VELCO"), Citizens Communications Company ("CZN"), and Vermont Electric Cooperative, Inc. ("VEC")*, Docket No. 6925 (Vt. Pub. Serv. Bd. Oct. 21, 2004). In an analogous context, the Board allowed Entergy Nuclear Vermont Yankee, LLC to commence site preparation and construction, at Entergy's financial risk, prior to satisfying all of the conditions necessary for increasing power at the Vermont Yankee nuclear power plant. *In re Entergy Nuclear Vermont Yankee, LLC*, Docket No. 6812 (Vt. Pub. Serv. Bd. March 15, 2004) at 117.

C. Imposition Of A Construction-Related Deadline For Conditions 12, 17, 19, And 28 Would Have the Unintended Consequence Of Precluding GMP From Taking Advantage Of the Production Tax Credits.

The timing for compliance with the requirement to procure specialized first responder equipment, to complete the archeological studies, and to secure the fragmentation-connectivity easement is largely beyond GMP's control. The specialized equipment needed to access the turbines will be available when the turbines are delivered. Pughe Affidavit ¶ 6. The date for issuance of the final SIS is determined by ISO-NE, but is currently expected to be the third week in July. Castonguay Affidavit ¶ 8. Moreover, availability of the fragmentation easement depends on completion of landowner negotiations and the associated documentation, which will take several months. Pughe Affidavit ¶ 9.

With respect to the archeological studies, GMP expects to complete the required analysis prior to commencement of construction, with the possible exception of Phase III studies, if needed, for four transmission line poles. Castonguay Affidavit ¶ 3. Although GMP continues to seek access to the affected parcels on a voluntary basis, it may require condemnation

proceedings to obtain the necessary access, due to lack of landowner permission. If so, GMP will initiate proceedings shortly. Such a proceeding, if necessary, cannot be completed prior to the beginning of August. *Id.*

The existing federal Production Tax Credits (“PTCs”) provide a benefit of approximately \$.021/kWh. Pughe Pf. at 13-14. The Project economics assume the availability of this benefit. Exh. Pet.-AJK-1 (Revised); Order at 34. In order to qualify for the PTCs, the Project must be in operation by December 31, 2012 deadline. Order at 21. GMP must commence construction on the Project by August 1, 2011, in order to maximize its chances of meeting this deadline. Pughe Affidavit ¶ 4; *see* Order at 21 (to obtain PTCs, “construction must commence by August, 2011”); Pughe Pf. at 13-14; Tr. 2-24-11 (Pughe) at 265.

For the above reasons, the deadlines imposed by the Board, unless modified, would have the unintended consequences of eliminating a substantial economic benefit identified by the Petitioners and acknowledged by the Board. Although GMP is confident it can comply with all four conditions, it cannot do so by the date required to commence construction. As a result, reconsideration is appropriate.

II. GMP Requests The Deletion Of Condition 20.

Condition 20 requires that the Petitioners implement all network upgrades recommended by the Feasibility Study for the Project. This condition should be deleted. No party proposed that the Petitioners comply with the Feasibility Study improvements. Instead, the Feasibility Study will be superseded by the System Impact Study (“SIS”). The Petitioner demonstrated, and the Board found, that the Project would not create significant adverse effects on system stability and reliability if the SIS improvements were implemented. Estey reb. at 2; Order at 28, 30-31. For this reason, the Board required that all improvements identified by the SIS be implemented. Order at 162 (Condition 19). As a result, the additional requirement to implement Feasibility Study improvements could not have been foreseen by GMP.

The SIS may require additional or different, and therefore potentially conflicting, system improvements. Estey Reb. at 2; tr. 2-4-11 (Castonguay) at 19-20; Castonguay Affidavit ¶¶ 9-11. As a result, compliance with Condition 20 may have the unintended consequence of conflicting with the requirement in Condition 19 to implement upgrades required by the SIS.

For these reasons, reconsideration is appropriate and the Board should delete condition 20.

CONCLUSION

Based on the above, GMP respectfully requests that the Board reconsider its decision and amend its Order and Certificate of Public Good to (1) modify the deadline for compliance with Conditions 12, 17, 19, and 28 in the manner identified above, and (2) delete Condition 20.

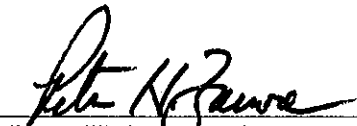
GMP requests the right to supplement this motion, and to respond to arguments by others on this issue. In addition, the Petitioners request oral argument on this motion unless the Board determines such argument is not necessary to grant the relief requested.

DATED at Burlington, Vermont this 14th day of June, 2011.

RESPECTFULLY SUBMITTED,

GREEN MOUNTAIN POWER CORPORATION

By: _____



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associated facilities on Lowell Mountain in Lowell,)
Vermont, and the installation or upgrade of)
Approximately 16.9 miles of transmission line and)
Associated substations in Lowell, Westfield and Jay, Vermont)

AFFIDAVIT OF JOSHUA CASTONGUAY

I, Joshua Castonguay, being duly sworn, hereby depose and state as follows:

Introduction and Background

1. I make this Affidavit based on my own personal knowledge and submit that the allegations set forth herein are true to the best of my belief.
2. I am employed by Green Mountain Power Corporation ("GMP" or "Green Mountain Power") as the leader of Field Operations. In that capacity, I am responsible for Substation operations, power generation and the control center. My business address is 163 Acorn Lane, Colchester, Vermont 05446. I have experience in transmission systems and engineering, based on my work with GMP in this area since 2003.

Remaining Archeological Studies

3. GMP expects to be able to complete all required archeological studies prior to commencement of construction, with the possible exception of Phase III studies, if needed, for transmission line pole 66, transmission line pole and anchor 144S, and transmission line poles 232 and 233. With respect to the parcels on which these

improvements will be located, GMP may require completion of condemnation proceedings to obtain the necessary access due to lack of landowner permission. If so, GMP will initiate proceedings shortly. Based on the normal duration of condemnation proceedings, I do not believe that these could be completed prior to the beginning of August 2011. GMP will not undertake transmission improvements at the affected site until all required archeological analyses have been completed in accordance with the requirements identified in Dr. Knight's testimony, whether facilitated through landowner permission or condemnation. The locations of the required facilities and the required archeology analysis can be accomplished within the overall transmission project schedule without adversely affecting the completion date of the proposed upgrades or on-line date of the wind farm.

SIS Upgrades

4. The final design plans recently submitted to the Board include all upgrades GMP expects will be required under the final System Impact Study ("SIS").

5. The costs reflected in the rate analyses filed in this case, Exh. Pet.-AJK-1 (Revised) – 6 (Revised) include the expected costs of the SIS upgrades.

6. It is highly unlikely that the cost of any upgrades above those already included in the rate analyses would exceed the \$27 million difference between the cost of the proposed transmission improvements and the least costly alternative. Exh. GMP-DPS-1, Attachment A.

7. GMP will not be able to interconnect the Project to the electric grid absent compliance with the requirements of the SIS.

8. GMP was initially advised that the SIS would be issued early in 2011. Since then, the expected date has been continually revised and GMP has been advised that the date is now the third week in July, 2011.

Feasibility Study

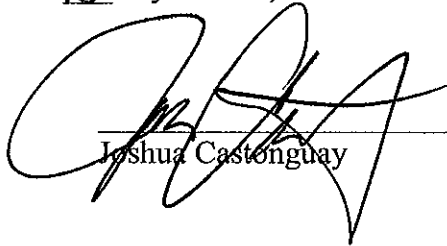
9. The Feasibility Study (Exh. Pet.-DPE-18 (Revised)) analyzed voltage and thermal impacts associated with the Kingdom Community Wind Project. The purpose of

a Feasibility Study is to determine if there are any “fatal flaws” in moving forward with a specific project, allowing a developer to stop the process before engaging in the much more costly System Impact Study (“SIS”). The study required a number of improvements in order to maintain system voltage criteria. These include, among other things, dynamic reactive support, capacitor banks at different locations and a transfer trip scheme.

10. The SIS is a more comprehensive analysis than, and supersedes, the Feasibility Study. GMP must implement the improvements required by the SIS, rather than the Feasibility Study, even if the SIS improvements are different than the improvements required by the Feasibility Study.

11. It is likely that the SIS will require improvements that are different than the Feasibility Study, because the SIS addresses potential improvements, such as the VELCO Jay Tap, which were not addressed in the Feasibility Study, and because the SIS analyzes system stability, in addition to thermal and voltage impacts.

Dated at Colchester, Vermont this 13 day of June, 2011.



Joshua Castonguay

State of Vermont
Chittenden County, SS

Subscribed and sworn to before me this 13 day of June 2011



Notary Public

My commission expires February 10, 2015

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AFFIDAVIT OF CHARLES W. PUGHE

I, Charles W. Pughe, being duly sworn, hereby depose and state as follows:

Introduction and Background

1. I make this Affidavit based on my own personal knowledge and submit that the allegations set forth herein are true to the best of my belief.
2. I am employed by Green Mountain Power Corporation ("GMP" or "Green Mountain Power") as the Project Manager for the Kingdom Community Wind Project (the "Project"), with responsibility for coordination and execution of all aspects of the project, including design, permitting, construction and operations. My business address is 163 Acorn Lane, Colchester, Vermont 05446.
3. I have experience in project management, based on past employment as (1) a field engineer, project superintendent and other positions with John Moriarty & Associates, Inc, a commercial general contractor headquartered in Winchester, Massachusetts, (2) a project manager and owner's representative on commercial construction projects for a variety of clients including Trammell Crow Company, Xerox, Oxford Health Plans, Dade/Behring, and The Procaccianti Group, and (3) since 2006,

responsibilities in field operations, outside contract services, and power generation with GMP. My work has included management of annual payroll budgets, project scoping, pricing and execution of capital improvements relating to GMP's generation, transmission and distribution systems.

Construction Schedule

4. Assuming receipt of all permits required for commencement of construction, GMP intends to begin construction on or about August 1, 2011. Construction by the beginning of August is necessary to maximize the chances of commercial operation by the December 31, 2012 deadline for the federal Production Tax Credits ("PTC's").

5. Major milestones include delivery of the turbines by June, 2012, completion of major components of the collector system and of those transmission components necessary to provide grid power to the collector system by July 1, 2012, initiation of testing of wind turbines in mid-July, 2012, completion of the collector system by mid-October, 2012, completion of the transmission system (including substations) by mid-October, 2012, and commercial operation by mid-November, 2012. In my experience, it is prudent to include a six week interval between the mid-November commercial operation target date and the December 31 PTC deadline, to respond to potential construction delays, which may be caused by, among other things, weather, equipment delivery delays or contractor coordination challenges.

Specialized First Responder Equipment

6. Pursuant to the Lowell Agreement, GMP intends to obtain and provide for the Town of Lowell, specialized equipment required to assist with rescue of personnel from the wind turbines. The specialized equipment, which consists primarily of customized climbing harnesses, is fabricated for the VESTAS V112 turbine and will be available when the turbines are delivered to the site in June, 2012. Training will be coordinated by GMP when the first turbine is erected.

7. GMP will also be providing winter transport vehicles (snow cat and snow mobiles) at the project site to access the turbine sites during the winter months when the

access road is no longer plowed. Plowed access to the maintenance building will be maintained throughout the winter months. The construction activities at the wind farm will shut down during the winter of 2011/2012 and therefore the winter transport equipment is not needed until the fall of 2012.

Fragmentation Easement

8. GMP began meeting with ANR in the summer of 2010 to address, among other things, ANR's interest in procuring off-sets for fragmentation effects of the Project. Based on these discussions, GMP began to investigate two properties identified by ANR as candidates for a possible connectivity easement in early January, 2011, and thereafter corresponded with the landowners during this time to determine their level of interest. After the GMP-ANR MOU was executed in February, 2011, ANR identified two pairs of properties that were candidates for connectivity easements, including the pair previously identified by ANR. Three of the property owners have expressed interest in providing the required easement or outright sale of the property, and GMP is continuing to pursue the 4th parcel.

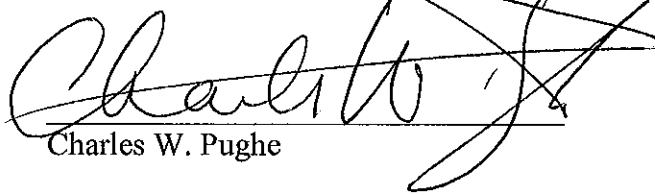
9. GMP has also had discussions with the Vermont Land Trust and ANR regarding the form of easement and the entity appropriate to hold the easement, and is working with ANR to finalize the details of the easement form. GMP anticipates finalizing the form of easement over the next several weeks. Once the final form of easement has been established, GMP will be able to proceed with more detailed discussions with the property owners, concerning the rights that will be conveyed and the resulting compensation requested by the property owners. GMP expects that these negotiations and completion of all required activities (including surveying, title work, appraisals, and tax planning for the property owners) could take several months. For these reasons, GMP will not be able to execute the easements prior to the planned construction start date of August 1, 2011.

10. Although the process of securing the easements is complex and time-consuming, GMP is confident that it will be able to secure the required easements adjacent to the 30,000 acre Lowell Mountain Habitat block by the commencement of commercial operation. As indicated above, several property owners have expressed

interest in conveying the necessary rights, either through an easement or sale of property. If the negotiations with these landowners are ultimately unsuccessful, GMP and ANR have agreed in the MOU to work in good faith to find other suitable parcels for connectivity easements. GMP has a very significant incentive to procure the required easements because, under the GMP-ANR MOU, it cannot commence commercial operation until the easements are obtained.

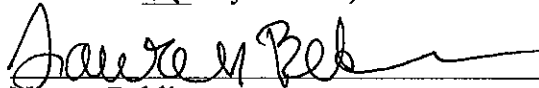
11. There will be no significant impact associated with the requested delay in securing the easements. The easements will be permanent and therefore the short time associated with the delay constitutes a tiny fraction of the period that potential impacts from fragmentation will be mitigated through execution of the easements. More importantly, fragmentation impacts will be avoided even during this short period because the easements will be secured on currently undeveloped property, and therefore there will have been no barriers to habitat connectivity during this period on the properties to be conserved.

Dated at Colchester, Vermont this 14 day of June, 2011.


Charles W. Pughe

State of Vermont
Chittenden County, SS

Subscribed and sworn to before me this 14 day of June, 2011


Notary Public

My commission expires: February 15, 2015