

STATE OF VERMONT
PUBLIC SERVICE BOARD

FEB 16 '17 4:56:07
VT PUBLIC SERVICE BOARD

Docket No. 8816

Petition of Swanton Wind LLC for a certificate of public)
good, pursuant to 30 V.S.A. § 248, for the construction)
of an up to 20 MW wind-powered electric generation)
plant powered by up to 7 wind turbines located along)
Rocky Ridge in Swanton, Vermont)

**MOTION TO INTERVENE OF
PATRICIA RAINVILLE AND JOHN SMITH**

We, Patricia Rainville and John Smith, jointly *pro se* under Public Service Board Rule 2.209(A)(3), or alternatively under Board Rule 2.209(B), move to intervene in the above-referenced matter.

We as adjoining neighbors have substantial, specific, and particularized interests that may be adversely affected by the outcome of this proceeding. This proceeding is the only means by which we can protect our interests, and these interests will not be adequately protected by other parties to this proceeding. Our interests are unique to protecting the use and enjoyment of our property and the public areas nearby, and our perspective is sufficiently distinct from that of other parties.

Our intervention will not unduly delay proceedings or prejudice the interests of existing parties or of the public.

Memorandum

We respectfully move to intervene in this matter based on our substantial, particularized interests in the following issues:

- (i) scenic or natural beauty and aesthetics, pursuant to 30 V.S.A. § 248(b)(5), and 10 V.S.A. § 6086(a)(8);

- (ii) orderly development of the region, § 248(b)(1);
- (iii) economic benefit to the State and its residents, § 248(b)(4);
- (iv) public health and safety, § 248(b)(5);
- (v) water pollution, conservation, and burden on water supply,
§§ 6086(a)(1), (3), and (4).

The following argument supports our motion to intervene in this matter.

I. Legal Standard

Intervention in proceedings before the Board is governed by Board Rule 2.209. Under Rule 2.209(A), a person upon timely application shall be permitted as of right to intervene in any proceeding:

- (1) when a statute confers an unconditional right to intervene; (2) when a statute confers a conditional right to intervene and the condition or conditions are satisfied; or (3) when the applicant demonstrates a substantial interest which may be adversely affected by the outcome of the proceeding, where the proceeding affords the exclusive means by which the applicant can protect that interest, and where the applicant's interest is not adequately represented by existing parties.

Under Rule 2.209(B), a person upon timely application may in the discretion of the Board be granted “permissive intervention” in any proceeding when the applicant “demonstrates a substantial interest that may be affected by the outcome of the proceeding.” The Board in exercising its discretion under this rule shall consider:

- (1) whether the applicant's interest will be adequately protected by other parties;
- (2) whether alternative means exist by which the applicant's interest can be protected; and (3) whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public.

The Board has ruled that, “individual intervenors may bring a perspective sufficiently

distinct from those of existing parties to warrant their participation on specific issues.”¹

For example, the Board has found particularized interest based on the following:

1. habitat and natural resources involving deer and black bear;²
2. aesthetics based on proximity to the proposed project;³ and
3. stewardship, use, and enjoyment of public resources;⁴

In proceedings under 30 V.S.A. § 248, the Board does not consider interests in private property.⁵

II. Potential Impact of the Project on the Rainville-Smith’s Interests

We move to intervene in this matter based on the following facts and applicable law:

1. The Rainville-Smith’s Property

We reside at 1952 Sheldon Road, Swanton, Vermont (mailing address: St. Albans). Our home is located less than a mile west of the site of the proposed Project.

We have lived at this address since November 8, 2008. We moved here from our dream house directly on Lake Champlain. This new house had to fill a huge need to be surrounded by nature’s best! It does! Due to 360 degrees of sky, we experience gorgeous sunrises and always unique sunsets. To our northeast we see hundreds of acres of farmland, and to our southeast we see the beautiful, natural, undisturbed Rocky Ridge. Our house is 6-7 minutes from grocery stores, banks, post office, restaurants, department stores, and the vibrant St. Albans Downtown!

From April to July 2016, we added a family room off our kitchen/dining room, taking the place of a cement patio that we rarely used. As we are in our 70s, the addition was part of a plan to accommodate our advancing age, and a way to take advantage of a most lovely backyard...feeling outside, when we are inside.

¹ *Application of Seneca Mountain Wind, LLC*, Docket No. 7867, Order of 10/12/12, at 12.

² *Application of Seneca Mountain Wind, LLC*, Docket No. 7867, Order of 10/12/12, at 2-4, 16-17; *Id.*, Order of 8/9/13, at 6.

³ *Petition of Barton Solar LLC*, Docket No. 8148, Order of 1/21/14, at 3-4.

⁴ *Joint Petition of Green Mountain Power Corporation, Vermont Electric Cooperative, Inc., and Vermont Electric Power Company, Inc.*, Docket No. 7628, Order of 9/3/10, at 12-13.

⁵ *Vt. Elec. Power Co. v. Bandel*, 135 Vt. 141, 145 (1977) (“Proceedings under 30 V.S.A. § 248 relate only to the issues of public good, not to the interests of private landowners who are or may be involved.”).

We installed oversize windows with transoms on all three outside walls, double open arch to the kitchen/dining room on the fourth wall. In addition, these windows, as in all other windows in the house, have insulating, wooden venetian blinds blocking the sun during the summer; during the winter, they are kept open to let the sun in thereby helping to warm the area.

After the sun sets, there is a natural cooling breeze from Rocky Ridge in the east, regardless of the heat of the day. Following the Frank Lloyd Wright principle, this lovely, natural cooling, eliminates the need for air conditioning. The miles of woods that create this delightful situation, is where the industrial turbines are planned. We are concerned that removal of foliage for construction of the Project would affect this natural cooling.

Additionally, flicker from the sun would fill that room, along with that whole half of our house, from noon until dark. As Patricia has a tendency to become motion-sick, we are concerned that shadow flicker caused by the Project would have an adverse effect on her health.

2. Aesthetics; Natural Areas

As described above, we appreciate the scenic natural views that surround our home, and we value the peace and quiet and natural sounds of this rural setting.

However construction and operation of the Project would affect our enjoyment of these views in this peaceful setting; and likewise the Project would affect surrounding public areas including Fairfield Pond, the Missisquoi Valley Rail Trail, and nearby roads. As adjoining landowners, we have a unique interest and perspective that would not necessarily be represented by other parties, and which may be useful to the Board in determining the impact of the Project on aesthetics.

Therefore, we respectfully move to intervene on : 10 V.S.A. § 6086(a)(8) (aesthetics, natural areas); and 30 V.S.A. § 248(b)(5) (aesthetics, natural areas).

3. Orderly Development; Economic Benefit to the State

We are retired, on social security and pension, and this house is a majority of our financial security. We are concerned that construction and operation of the Project would cause a decrease in the value of our home.

We understand that our interest in private property may not be considered in this case, however we assert that the Project would not only affect the value of our home, but rather all the homes in the surrounding area thereby affecting the regional and statewide economy. The Project in disrupting this rural residential setting would

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Petition of Swanton Wind, LLC for a certificate of public)
Good, pursuant to 30 V.S.A. §248, for the construction)
Of an up to 20 MW wind-powered electric generation)□ Docket No. 8816
Plant to be located in Swanton, VT)

**MOTION TO INTERVENE OF
John A. Smith and Patricia Rainville**

Now come John A. Smith and Patricia Rainville and move to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. John A. Smith and Patricia Rainville are adjoining property owners who have substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.
2. John A. Smith and Patricia Rainville live at physical address of 1952 Sheldon Road, Swanton, VT. Our mailing address is 1952 Sheldon Road, St. Albans, VT.

John A. Smith, in support of the motion to Intervene filed by myself and my partner Patricia Rainville, subject to the penalties of perjury, do state the following facts, which are true to the best of my knowledge and ability:

I am a resident at 1952 Sheldon Road. Our mailing address is St. Albans, but our physical address location is Swanton. Our home will be approximately ¼ mile from a proposed industrial wind turbine location.

I have been a resident at this address since October 2010. It is a quiet and peaceful location. To my North / West I have hundreds of acres of farm land and to my South / East the beautiful natural undisturbed Rocky Ridge Line.

I am now retired. I am a Viet Nam veteran. Due to injuries in my life time my mobility has been reduced. The beauty and peaceful surroundings around our house brings me great joy.

I spend my time working in our yard in nice weather. I also derive a great deal of enjoyment from sitting out on the deck in the back of the house facing the ridge line reading. I at times will bring my laptop out to one of our patio tables located

on the deck and answer correspondence. We have both a bird feeder and a suet feeder in our back yard just off the deck. I go through approximately a 40 lb bag of black oil seed a month and at least 6lbs of suet every month each winter. I spend a great deal of time at our beautiful home. Our home is our Utopia.

Although I am not able to hike Vermont's trail system any longer, I still enjoy the occasional deer and other wildlife that wander down from the ridge into our yard. There is nothing more magnificent than watching the eagles gliding on the air currents along that ridge line. In the migration season thousands of geese seem to use the ridge line to fly North and South.

I am a light sleeper. My concern is with the sound of the industrial turbine blades slicing through the wind seven days a week, 24 hours a day. I would not be able to get any sleep or rest. I feel the noise will also limit my ability to be outdoors. I also have concern about the health of my partner and myself being under constant exposure to the constant sound from these industrial wind turbines.

The morning sun comes up from behind the ridge line. With an industrial wind turbine between the sun and our house we will experience shadow flicker on both our deck and sun room in the back of the house which will be very annoying.

There is also the question of water runoff affecting our drinking water and our property itself. Currently we have plenty of fresh water and excellent flow rate. With the blasting of the ridge line to build the base to hold these industrial turbines what guarantee do we have that we may not lose all water completely?

This blasting could very well damage our house structure and surrounding structures!

We have two cats. I have deep concerns for both the domestic animal and wild animals living so close to an industrial wind farm. I have read many articles of how both the noise and electrical leakage from these industrial turbines affect them. There are many active farms in this area that could very well be affected. We could also experience our wild life leaving the area driven away by all this additional noise and activity.

I have read many articles about the tremendous slaughter of the bat population around industrial wind turbines. Many of these species are near extinction. The bat is Mother Nature's form of insect control. Do we really want to force another species into extinction?

I question if this proposed industrial wind farm is a wise choice economical, St. Albans and Swanton which has invested a considerable amount of tax payer's

money to refurbish the town to attract more tourists. I believe this industrial wind turbine project would only hurt this area's economy and kill off our tourism trade.

I have read material that is against placing industrial wind farms within forty miles of a military air base. The operation of industrial wind turbines within a 40 mile range of a base can affect the radar capabilities. Yet we have a home land security base located within 5 miles of this purposed industrial wind farm site.

If this industrial wind project is accepted there will be a need for high powered electrical tower and electric cable. Where are these towers going to be placed? At whose expense are these going to be put up? Are people going to have to give up property by imminent domain?

Should this industrial wind project be approved the value of our home will be drastically reduced. The value of the houses for miles will be drastically reduced. Many of us will not be able to sell our homes due to the lack of interest to live in the shadows of a wind farm. Then what?

My question is when one of these five hundred foot industrial turbines catches fire how are the flames extinguished...? What prevents this industrial turbine fire from spreading throughout a residential community cause human life loose and property damage? Who is liable for the collateral fire damage repairs...? What assurance do the families in the community have that this can never happen...?

Personal property taxes collected by the towns of Swanton, Fairfield, and St. Albans will have to be cut due to property devaluation. However the number of roads that will need to be plowed will still be the same. Other town project will not go away.

If the power created by this wind farm is being sold out of state how does this apply to our goal of 90% renewable energy by 2050? Why are we destroying our beautiful Vermont to satisfy the needs of other states?

In summary I do not oppose all forms of renewable energy. However, we need to seriously consider the consequences of rushing to judgment. I do not oppose someone wanting to put a residential wind turbine up on their property as long as it doesn't directly affect neighbors. I do not oppose someone wanting to put residential solar panels up on their property as long as they don't directly affect

neighbors. I do not oppose hydroelectric power which our federal and state government refuses to accept as a source of renewable power.

There are 134 building within a 1 mile radius of this purposed industrial wind farm. Many of these building are homes. Many of these homes house families. Many of these families have young children. I ask is it fair to expose our children to the demons of industrial wind power for the sake of pure greed?

We live here in a small community. Most of us truly care about our neighbors.

All my partner and I want to do is to live out our remaining years in our home in peace.

This may be a matter of a wrong location.

We all need to be held responsible for our decisions. It is time to make the right decision and say "NO"

Wherefore, John A. Smith and Patricia Rainville pray that they be permitted to participate in this Docket No. 8816 as parties in accordance with PSB Rule 2.209(B).

Dated this 2nd day of January, 2017 in Swanton, Vermont.

By:

John A. Smith
Patricia Rainville

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Docket No. 8816

Petition of Swanton Wind LLC for a certificate of public)
good, pursuant to 30 V.S.A. § 248, for the construction)
of an up to 20 MW wind-powered electric generation)
plant powered by up to 7 wind turbines located along)
Rocky Ridge in Swanton, Vermont)

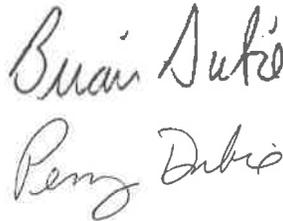
FEB 16 17 9:56
VT PUBLIC SERVICE BOARD

CERTIFICATE OF SERVICE

We, Brian and Penny Dubie, et.al., certify that on February 16, 2017, copies of the foregoing *Notices of Appearance*, and *Motion to Intervenes of Brian and Penny Dubie, Jeanne Royer, Judith and Patrick Luneau, Karen and Leo McLaughlin, Sally and Bruce Collopy, Kaye and Frank B. Mehaffey, Jr., Terrance Smith, David A. Goodrich, Robert Perkins, Patricia Messier, Sarah & Ed Ferguson, Ian and Danielle Garrant, Curtis Swan and Sara Luneau-Swan, Dan and Nancy Dunne, Erynn & Tyrell Boudreau, Dennis Hendy and Diane Bell, Mary and Mark Bushey, Steve Woodward, Kenneth Fox, Michelle and Luc Deslandes, David Butterfield, Bradley Stott and Jennifer Belanger, Clark and Carol Palmer, Paula Pearsall, Greg Pierce and Paula Kane, Mark and Marianne Dubie, Marie and Gil Tremblay, Patricia Rainville and John Smith, Kevin and Dolores Nichols, Jessica Decker and Lance Desautels, Suzanne Seymour, Mary Hunter, Todd Poirier* in the above-referenced matter, were served via First-Class U.S. Mail on the interested persons designated in the following Service List.

Respectfully submitted this 16th day of February, 2017.

By:



Brian Dubie
Penny Dubie
770 McKenzie Road
Fairfield, VT 05455
(802) 734-1877
pennydubie@gmail.com

SERVICE LIST

Leslie Cadwell, Esq,
Alison Milbury Stone, Esq.
Legal Counselors and Advocates PLC
PO Box 827
Castleton, VT 05735

Green Mountain Power Corp.
163 Acorn Lane
Colchester, VT 05446

Aaron Kisicki, Esq.
Vermont Department of Public Service
112 State Street, Third Floor
Montpelier, VT 05620-2601

Edward Adrian, Esq.
Monaghan Safar Ducham, PLLC
156 Battery Street
Burlington, VT 05401

Cindy Ellen Hill, Esq.
144 Mead Lane
Middlebury, VT 05753

Melanie Kehne, Esq.
Vermont Agency of Agriculture
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001

William F. Ellis, Esq.
McNeil, Leddy & Sheahan, P.C.
271 South Union Street
Burlington, VT 05401

Joseph S. McLean, Esq.
David W. Rugh, Esq.
Stitzel, Page & Fletcher, P.C.
171 Battery Street, P.O. Box 1507
Burlington, VT 05402-1507

Leslie Welts, Esq.
Vermont Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3901

David Englander, Esq.
Vermont Department of Health
108 Cherry Street – Drawer 39
PO Box 70
Burlington, VT 05402

Dale E. Azaria, Esq.
Vermont Division for Historic Preservation
1 National Life Drive
Davis Building, 6th Floor
Montpelier, VT 05620-3901

John Dunleavy
Assistant Attorney General
Vermont Agency of Transportation
One National Life Drive
Montpelier, VT 05633