

**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 )

**MOTION TO INTERVENE OF  
STEVEN WOODWARD**

I, Steven Woodward, *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.

As a non-adjointing neighboring property owner, I 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 I can protect my interests, and these interests will not be adequately protected by other parties to this proceeding. My interests are unique to protecting the use and enjoyment of my property and the public areas nearby, and my perspective is sufficiently distinct from that of other parties.

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

**Memorandum**

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

- (i) orderly development of the region, pursuant to 30 V.S.A. § 248(b)(1);

- (ii) economic benefit to the State and its residents, § 248(b)(4);
- (iii) public health and safety, § 248(b)(5);
- (iv) water pollution, conservation, and burden on water supply, 10 V.S.A. §§ 6086(a)(1)(A), (B), and (C), (3), and (4);
- (v) scenic or natural beauty and aesthetics, § 248(b)(5) and § 6086(a)(8);
- (vi) necessary wildlife habitat or endangered species, § 6086(a)(8)(A); and

The following argument supports my 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.”<sup>1</sup>

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

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

In proceedings under 30 V.S.A. § 248, the Board is not required to consider interests in private property.<sup>5</sup>

## **II. Potential Impact of the Project on Steven Woodward’s Interests**

My family and I have resided for fourteen years on our property at 2040 Sheldon Road, Swanton, Vermont (mailing address: St. Albans). Our home is located approximately 2,500-2,800 feet northwest of Rocky Ridge, the proposed site of the Project. The turbines associated with the Project would be visible and audible from our home.

We decided to purchase our property and live in this location in order to be near my wife’s family, and to live among the scenic beauty of the fields and ridges in the area. Construction and operation of the Project would materially diminish the visual and auditory harmony of our home, and adversely affect our use and enjoyment of our property and nearby public areas.

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

<sup>2</sup> *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.

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

<sup>4</sup> *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.

<sup>5</sup> *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.”)

\* \* \*

The Project purports to advance the public good, however I assert that any potential good may be outweighed by the likely harm. Accordingly, I move to intervene by right or permission on the following six issues.

1. **Orderly Development: 30 V.S.A. § 248(b)(1)**

As a longstanding, neighboring homeowner, I have unique experience and particular interest in the orderly development of the region which other parties to this proceeding may not necessarily represent. My family's use and enjoyment of our property and nearby public land, and our appreciation of the surrounding wildlife and natural, peaceful setting, may be adversely affected by the construction and operation of the Project. My perspective regarding land use, natural resources, and conservation may be useful to the Board in determining the potential nature and extent of the impact of the Project on regional development. Therefore my motion to intervene on this issue should be granted.

Beyond my particular interest in this issue, the voters of Swanton voted 731 - 160 against this project. The Board should consider that the will of a community, otherwise expressed as local input and control, is important if the State is to achieve its goal of 90% renewable energy by 2050. Without such consideration, there will be continued backlash against development, and widespread belief that communities have no say in decisions affecting their future.

2. **Economic Benefit: § 248(b)(4)**

Construction and operation of the Project would have a significant impact on the economy of the State. While I am concerned over the potential decrease in the value of my home, as it is my biggest investment, I understand that my interest in private property may not be considered in this case. Nonetheless I assert that the Project would adversely affect property

values locally and regionally, and thereby harm the economic interests of the State and its residents. My assertion is based on evidence showing that properties near the Georgia Mountain Wind facility decreased in value as the town reconsidered and reduced the assessed value of some homes.

Therefore, as I have a unique perspective and particular interest in this issue that is not necessarily represented by other parties, I should be allowed to intervene on this issue.

**3. Public Health and Safety: § 248(b)(5)**

The Project and associated noise and blasting during construction may have a significant impact on the health and safety of my family.

I am particularly concerned over the intermittent noise that would be generated by the seven turbines towering over the fields behind my house. In comparison, I once had a fan that we would use on hot summer nights in order to cool us down so we could sleep. The fan would run normally for about ten minutes, then it would surge for a few minutes, then it would settle down, and do it all over again. We stopped using this fan due to its variability. As we regularly sleep with the windows open, it is troubling to imagine the variability of that house fan multiplied on the scale of seven wind turbines. Noise from turbines during nighttime sleeping hours is one of my main concerns with the Project, as the current acceptable levels of sound are not reduced during nighttime operation. Therefore the noise from the Project may affect our ability to obtain necessary, restorative sleep.

Second, I am concerned that blasting and drilling during the construction of the Project, or subsequent operation, may contaminate our drinking well. We have a child with a chronic, life threatening illness. If our water becomes tainted with any pathogens or chemicals from the many tons of cement required for construction, or contaminated otherwise, her health would be compromised.

Third, blasting associated with construction of the Project may affect the structural integrity of my house which is over fifty years old. As my property is located close to the site of the proposed Project, and construction would occur in the hard ground of Rocky Ridge, I am concerned that blasting and vibration may damage the foundation or walls of my home.

Finally, I am concerned that blasting during construction may adversely affect my dog. She is extremely sensitive to noise as evidenced by her panic attacks during thunderstorms. Therefore the blasting during construction of the Project may cause her to experience physical distress.

Accordingly, as my particular concerns over public health and safety on our property would not be adequately represented by other parties to this proceeding, I should be allowed to intervene on this issue.

**4. Water Pollution, Conservation, and Burden On Water Supply:  
10 V.S.A. §§ 6086(a)(1)(A), (B), and (C), (3), and (4)**

As stated in the previous section, I am concerned that blasting, drilling, or operation of the project may affect the quality of the water in our drinking well. Likewise, the Project may affect the volume and recharge rate of the well.

Additionally, my house may be affected by excessive water run-off caused by impervious surfaces associated with construction and operation of the Project. Currently, springtime flooding and flooding after heavy rain poses a significant problem for us, as water seeps into our basement. Therefore additional water caused by run-off from the Project may result in flooding of our basement and damage to the structure of our home.

Therefore, as my particular interest in the quality and volume of water affected by the Project would not necessarily be represented by other parties, my motion to intervene on this issue should be granted.

**5. Scenic or Natural Beauty and Aesthetics: § 248(b)(5) and § 6086(a)(8)**

The construction and operation of the Project may have a significant impact on the sounds and sights affecting my home, my property, and the surrounding public areas.

Particularly, as explained in a previous section, I am concerned over the intermittent noise that would be generated by the nearby turbines, and the effect of that noise on our sleep. Additionally, that noise in the late afternoon and early evening would disrupt my family's ability to relax outdoors and enjoy time together. My concern is based on my research of Board dockets involving noise complaints filed by neighbors of existing projects. I found that many neighbors living in close proximity to virtually every operating wind project in Vermont, have had complaints over noise. Not only are there multiple complaints, but it appears that remedies are lacking. I am concerned that in this case, if developers receive a certificate of public good, and subsequently they violate it, we will suffer the same consequences as those neighbors with open dockets in front of the Board, namely, we will be subjected to endless motions to dismiss and denials of violations. It appears that in these cases it takes months, or even years, for any type of resolution.

Regarding visual aesthetics, I believe that during the afternoon the reflection of the sun from the turbine blades would project into my backyard (I once observed such reflection while driving past the Lowell wind project). As I work during the day, the afternoon and early evening hours are precious to my family in allowing us to spend time outdoors together. To have seven turbines spinning and reflecting sunlight in our backyard, would be extremely disruptive to the use and enjoyment of our land.

In addition to the impact of the Project on the aesthetics of my home and property, the noise, reflection, and shadow flicker caused by the Project would disrupt the peaceful setting and scenic public areas nearby.

Therefore, given my particular experience and interest as a longstanding neighboring

landowner, and my perspective which may be useful to the Board in determining the outcome of this proceeding, I should be allowed to intervene on this issue.

**6. Necessary Wildlife Habitat or Endangered Species: § 6086(a)(8)(A)**

I appreciate the wildlife that inhabits the surrounding area, yet construction and operation of the Project may disrupt this local habitat. Presently the nearby deer and turkey population is healthy, however I am concerned that the Project would be harmful to them. The noise from excavating and blasting would unsettle nearby wildlife, and may cause them to abandon their territory. Additionally, given the proximity of the Project to Fairfield Pond, placing seven turbines atop a low-lying ridge directly in line of a major flyway for migratory waterfowl, would likely cause unnecessary injury or death to birds.

The significant area, height, and scope of the Project in this natural setting may adversely affect necessary wildlife habitat or endangered species. I acknowledge that in this proceeding the Agency of Natural Resources may be best situated to intervene on this issue, however my perspective as a longstanding landowner may differ from that of other parties, and I may provide useful insight into the extent and nature of the impact of the Project on important wildlife and habitat. Thus in the public interest I should be allowed to intervene on this issue.

**III. Conclusion**

I attended the workshop held by Swanton Wind on February 9, 2017, where the developers did not answer many of the questions presented to them. They either told us they didn't know – for example, how many turbines, or how much output the Project would generate -- or they were vague in their answers. If they didn't have an answer, they told us to read the application.

Additionally, questions were raised over where Swanton Wind would sell its power, yet no definitive answer was given. We were informed that presently no utility in Vermont wants to

enter into a purchase agreement with Swanton Wind, but they are working on an agreement with the state of Connecticut. However, this Project at its inception was presented as a, "local project, where the power will be sold locally." Also, the developer could not give to members of our selectboard answers regarding how much revenue would be generated for the town. The one sure answer we did get was that only the host town would be financially rewarded.

Swanton Wind chose the date for this workshop so that all their experts could be there, however at least two of them did not attend. And the experts who did comment were not persuasive that this project serves the public good. For example, the sound expert repeatedly needed to be shown what was in his own models.

In conclusion, given the size and potential effects of this Project on the lives of so many people, I believe that Swanton Wind is not adequately prepared. Therefore, I assert that while this Project is purported to advance the public good, it also raises significant concerns over the public interest. Accordingly, in order to protect myself, my family, and my neighbors throughout the State, I should be allowed upon the evidence presented herein to intervene in this proceeding.

Respectfully submitted this 16<sup>th</sup> day of February, 2017.

By:



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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 16<sup>th</sup> day of February, 2017.

By:



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