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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

January 27, 2016

VIA U.S. MAIL

Annette Smith

c/o

Vermonters for a Clean Environment

798 Baker Brook Road

Danby, Vermont 05739

Re: Public Records Request

Dear Ms. Smith:

I am writing in response to your request for records that was received by the Vermont Attorney General's Office after the close of regular business hours on January 21, 2016.

Request

You request "copies of all letters, reports, studies and other writings, including electronic mail, telephone logs, and other documentation, issued, produced, recorded, or received by your Agency in regards to documents related to a number of different proceedings before the Public Service Board regarding Annette Smith and/or Vermonters for a Clean Environment."

We sought clarification regarding the scope of your request by telephone on January 22, 2016. We understand your request to be for records related to a complaint received by the Attorney General alleging that you may have engaged in the unlicensed practice of law before the Public Service Board in five different dockets.

Response to Request

As your request pertains to a complaint currently under review by the

Criminal Division of the Attorney General's Office, this response comes from that Division.

The Criminal Division of the Vermont Attorney General's Office has identified records that fall within the scope of your request. I have separated the records into two categories.

1. Records subject to production or inspection

The Attorney General's Office has identified and will produce approximately 590 pages of records that are responsive to your request. These records include the complaint and attachments, as well as email correspondence pertaining to the review of the complaint.

Information within these records has been redacted pursuant to 1 V.S.A. §§ 317(c)(5)(A)(iii) and 317(c)(5)(D). The information is being redacted because disclosure could constitute an unwarranted invasion of personal privacy or would reveal the identity of a private citizen who is a victim or witness. 1 V.S.A. §§ 317(c)(5)(A)(iii), 317(c)(5)(D). The provisions of § 317(c)(5)(D) are mandatory. See *Id.* § 317(c)(5)(D) (providing that "a public agency shall not reveal information that could be used to facilitate the commission of a crime or the identity of a private individual who is a witness to or victim of a crime").¹

Notwithstanding the provisions of 1 V.S.A. §§ 317(c)(5)(A)(iii) and (D), the Vermont Attorney General's Office is not redacting references to the identity of private individuals from records in its custody that appear in 1) copies of filings, hearing transcripts, orders, or decisions in Public Service Board proceedings; 2) newsletters that have been distributed by Vermonters for a Clean Environment; or 3) commentary published on the World Wide Web. Those records have already publicized the identities of any individuals mentioned therein.

2. Records not subject to production or inspection

The Attorney General's Office has identified additional records in its possession that may be responsive to your request but that are exempt from disclosure under Vermont's Public Records Act. These records consist of attorney-work product.

¹ Notwithstanding the requirement set forth in § 317(c)(5)(D), the Criminal Division has sought permission from the complainant to not redact that individual's identifying information. Permission was denied.

Attorney-work product is privileged pursuant to 1 V.S.A. § 317(4), which provides that “[r]ecords which, if made public pursuant to this subchapter, would cause the custodian to violate any statutory or common law privilege[.]” The Vermont Rules of Criminal Procedure provides for the attorney-work-product privilege, which covers “legal research or of records, correspondence, reports, or memoranda to the extent that they contain the mental impressions, conclusions, opinions, or legal theories of the prosecuting attorney, members of his legal staff, or other agents of the prosecution, including investigators and police officers.” V.R.Cr.P. 16(d)(1).

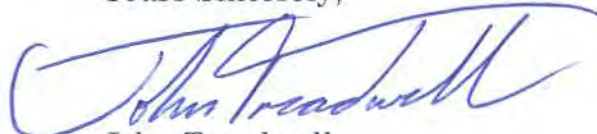
Additionally, certain other records, if disclosed, “could be used to facilitate the commission of a crime or the identity of a private individual who is a witness to or victim of a crime.” 1 V.S.A. § 317(c)(5)(D). As discussed above, we are therefore prohibited from publicizing those records.

Right to Appeal

To the extent that this letter constitutes a denial of your request, you may appeal to the Deputy Attorney General. Any appeal should be in writing and addressed to:

Susanne R. Young
Deputy Attorney General
109 State Street
Montpelier, VT 05609-1001

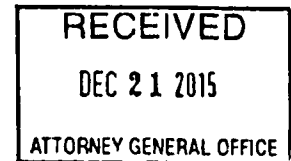
Yours Sincerely,



John Treadwell
Assistant Attorney General

Enc.

December 17, 2015



William E. Griffin, Esq.
Chief Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001

Re: Unauthorized Practice of Law by Annette Smith

Dear Bill:

I hope this letter finds you well.

I write to share my concern that Annette Smith, Executive Director of Vermonters for a Clean Environment, has engaged in the unauthorized practice of law in connection with a number of proceedings before the Public Service Board. As explained below, it appears that Ms. Smith's conduct in those matters has crossed the line from pro se advocacy on behalf of her own organization into the realm of rendering legal advice and representation to third parties.

As you know, the Office of the Attorney General is statutorily authorized to enforce the State's laws against the unauthorized practice of a regulated profession. 3 V.S.A. § 127(b), (c). In Vermont, "one is deemed to be practicing law whenever he furnishes to another advice or service under circumstances which imply the possession and use of legal knowledge and skill." *In re Welch*, 185 A.2d 458, 459 (Vt. 1962). This includes "giving of legal advice and counsel, and the preparation of legal instruments and contracts of which legal rights are secured." *Id.*; see also Vt. Bar. Assoc. Advisory Ethics Opinion 88-04 (representation of clients before administrative board by layperson constitutes the unauthorized practice of law); Vt. Bar. Assoc. Advisory Ethics Opinion 03-08 (preparation of filings and affidavits for submission to Family Court constitutes unauthorized practice of law).

Annette Smith is not a licensed attorney in Vermont. Rather, she serves as the Executive Director of Vermonters for a Clean Environment, an organization that advertises itself as "assist[ing] Vermonters with research, strategies, and guidance through the regulatory process on issues impacting Vermont's Communities." See Tab A (VCE web page) at 3. In that capacity, she has regularly been providing legal advice to parties in proceedings before the Public Service Board, as well as helping to draft filings for those parties. I submit that such activities bring her squarely within Vermont's definition of the unauthorized practice of law.

An illustrative example of Ms. Smith's conduct in this regard is her involvement in Public

William E. Griffin, Esq.
December 17, 2015
Page 2

Service Board Docket No. CPG NM-1646, a proceeding relating to a net-metered wind turbine developed by Green Mountain Power in Vergennes. There, Ms. Smith provided considerable assistance and counsel to two pro se intervenors, Redacted who claimed that the turbine was having adverse impacts on their health and property. Not only did Ms. Smith aid Redacted in preparing pre-filed testimony, see Tab B at 1 and Tab C at 1, she sought to formally intervene in the proceeding to represent Redacted interests. In a hearing before the Board's hearing officer, Ms. Smith argued that allowing Vermonters for a Clean Environment to intervene and represent Redacted would streamline the hearing process, and noted that Redacted would be relying on her counsel in any event: "[U]nless we are able to represent our members . . . , then there's going to be times when it's going to be very slow because we're going to be advising . . . Redacted questions to ask and things to say." See Tab D (Jan. 14, 2014 Hearing Transcript) at 15:19-24.

Ms. Smith acknowledged at the hearing that she had been assisting Redacted for two years, *id.* at 19:17-22, and Redacted the filings submitted by Redacted in the course of the proceeding identifies Annette Smith as the author. Redacted This is no surprise, as Redacted filings, which include a lengthy post-trial brief, see Tab F (post-hearing brief), plainly lie beyond the ken of individuals Ms. Smith characterized as "hav[ing] absolutely no ability to participate in this process." Tab D at 15:9-11. Ms. Smith stated that her work for Redacted was consistent with "what we often do," namely, "assist people without intervening." *Id.* at 19:21-22.

Indeed, Smith's work for Redacted is part of a pattern of like conduct in other Public Service Board cases. She has performed similar services for other pro se parties, providing counsel and advice, see Tabs G and H (discovery responses in Docket No. 8148), and, it would appear, helping prepare substantive filings on their behalf, Redacted Redacted

Redacted

Ms. Smith's services are not limited to individual clients; she has provided services to at least two municipalities. Ms. Smith has identified herself as a "consultant to the [Irasburg] Selectboard" with regard to Public Service Board Docket No. 8585, see Tab L (Oct. 6, 2015 Hearing Transcript) at 14:20-15:1, Redacted

Redacted Ms. Smith has likewise assisted the Town of Morgan in Public Service Board Docket No. CPG NM-6633. The Morgan Selectboard's minutes from September 28, 2015 reflect discussion of "[a]ttorney compensation to Annette Smith," who "helped tremendously on the Town's document that was filed with the PSB . . . in opposition to the Application of Seymour Lake Solar, LLC." Tab N at 2-3. The matter was taken up again at an October 26, 2015 Selectboard meeting, where "[a] motion was made and seconded to approve to pay Ms. Smith \$2,500.00 now and keep the rest for any help needed in case of wind towers coming to town and will send a letter stating that the money is a donation for

Redacted

William E. Griffin, Esq.
December 17, 2015
Page 3

services . . .” **Tab O** at 3.¹

In sum, there can be little question that Ms. Smith has been “furnish[ing] . . . advice or service under circumstances which imply the possession and use of legal knowledge and skill,” *Welch*, 185 A.2d at 459, and I hope your office will review the evidence and take appropriate action. I would be happy to meet with you to discuss the matter if I can be of any assistance.

Thank you.

Redacted

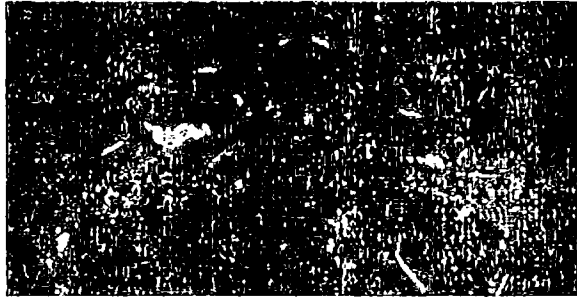
Very truly yours,

Redacted

Enclosures

¹ It appears that the payment has not yet been made. After my office submitted a Public Records Act request to the Town of Morgan, the Town notified us that they had “put a hold” on the payment to Ms. Smith “pending litigation outcome.”

ABOUT VERMONTERS FOR A CLEAN ENVIRONMENT, INC.



Who are we?

Vermonters for a Clean Environment is a statewide non-profit corporation. We believe that Vermont's economic growth depends on its environmental health.

VCE was founded in 1999 by citizens in southwestern Vermont who joined together to deal with an inappropriate industrial development project. VCE's members now come from all over Vermont.

VCE Board of Directors 2014

Kathy Halford, Wallingford
 Steve Halford, Wallingford
 David Wright, Middletown Springs
 Adam Guettel, Tinmouth
 Alex Fauchet, E. Dorset
 Steve Burzon, Danby

This grassroots organization receives the majority of our funding from citizens, with additional foundation support. Over the years we have received grants from New England Grassroots Environment Fund, Lear Family Foundation, Patagonia Foundation, Lintilhac Foundation, Johnson Family Foundation Fund, Ettinger Foundation, Prentice Foundation, Maverick Lloyd Foundation, Kelsey Trust, Vermont Community Foundation's Sustainable Future Fund, and the Park Foundation.

VCE's staff consists of founder and Executive Director Annette Smith ([article in Rutland Herald](#), [AP story](#), [profile in Vermont Farm Women book](#)) who works out of Danby (802) 446-2094, with Assistant Elizabeth Cooper. We hire lawyers, experts and public outreach as necessary to achieve our goals.

What is our mission?

VCE is fighting for the economic well-being of all Vermonters assuring appropriate use of our resources -- our people, our land, our air and our water.

We are united in the belief that Vermont's future lies in conserving its clean, rural, small-town environment. We have joined together to pursue the common goals of encouraging economic development with minimal environmental impacts and preserving Vermont's natural beauty. VCE is committed to providing facts and information so that people can make informed decisions.

Vermont has some of the cleanest air in the nation and large quantities of pure water. We support long-term planning for sustainable economic and energy policies for Vermont that will benefit Vermonters and set standards for other states to follow.

We encourage your participation.

Click [here](#) to join VCE.

Get Involved

Join VCE and support our mission to protect Vermont's environment and economy. Members receive updates on issues, provide feedback, and identify impending projects. Please include your email if you wish to receive up to date news and action alerts.

Name _____

Address _____

City _____ State _____ ZIP _____

Phone _____ email _____

Mail to: VCE, Inc.
789 Baker Brook Road
Danby, VT 05739

Donate on-line:



VCE: Citizen Action Gets Results

Vermonters for a Clean Environment (VCE) was founded in 1999 by citizens in southwestern Vermont who joined together to oppose a billion dollar natural gas power plant and pipeline project proposed for the region.

After more than a year of heated opposition, we won.

In January, 2000 the privately-owned Swiss mining company, OMYA, Inc.

announced intentions to open a new mine in the scenic and remote Danby Four Corners valley, which would also have been impacted by the pipeline route.

In Sept. 2004, OMYA sent a letter to the town of Danby selectboard indicating that the privately-owned Swiss corporation has "closed this project." Because OMYA still owns the land, VCE will remain vigilant into the future.

VCE is now a statewide organization with members throughout Vermont. We assist Vermonters with research, strategies and guidance through the regulatory process on issues impacting Vermont's communities. VCE protects the interests of small businesses that are jeopardized by corporate industrial development. Vermonters guide the work of VCE.

Here are a few of our current activities:

- **Water.** Threats to our aquifers and watersheds are increasing daily. Vermonters have taken this precious resource for granted. We worked with VNRC, Water 1st, DCRG and other citizens in several Vermont communities to increase protection of groundwater, resulting in the public trust doctrine applied to groundwater. We have expanded our work on water to include surface water, and the interconnection between surface water and groundwater. Water is central to every issue VCE works on.
- **Chloramine.** Municipal water systems, especially those that use surface water, are facing an EPA rule that requires the reduction of chlorine's disinfection byproducts. The cheapest way to comply with the rule is to switch from chlorine as a secondary disinfectant to chloramine. The Champlain Water District in Chittenden County, Vermont (but not Burlington) switched to chloramine in April 2006. Citizens immediately began complaining about skin rashes, burning eyes, digestive problems, and breathing problems. VCE has worked with citizens in Vermont, New York, Pennsylvania, California and other states where people are reporting the same problems with their tap water. We are working with developers of new technologies to find solutions to the challenge of drinking water disinfection.
- **Mining.** VCE has provided support to citizens in Clarendon, Chester, Moretown, Rochester, Randolph, East Middlebury, Florence, Bethel, Londonderry and other Vermont communities dealing with resource extraction.
- **Industrial Chemicals and Mining Waste Disposal.** Omya is the largest user of biocides in the state of Vermont. VCE challenged Omya's discharge permit, which allows the use of significant new biocides without prior review and approval by the state of Vermont. Omya's use of chemicals is now a major issue for state regulators and new mining waste regulations have been developed thanks to VCE. Omya has received full certification from the state for its waste dumping site, has installed a dewatering facility and built a lined landfill on top of the old waste. Omya changed its flotation reagent to a less toxic formulation after a legislatively-mandated study identified serious inadequacies in the scientific work being done at Omya's site in Florence. We are grateful to Cambridge Environmental and GeoSyntec for the expertise they

brought to the investigation of Omya's waste handling practices. With GeoSyntec now hired by Omya to do groundwater monitoring, we have much more faith in the scientific work being done at Omya's site in Florence.

- **Energy.** VCE provides support for citizen groups on major energy issues, including Enel, Iberdrola, First Wind, Green Mountain Power and other utility scale wind energy proposals, the deployment of wireless smart meters by CVPS, GMP and BED, VELCO's tower build-out, and Entergy's Vermont Yankee nuclear power plant.
- **Agriculture.** VCE received reports from citizens living near farms and orchards where pesticides are used. VCE's investigation concluded that the Vermont Department (now Agency) of Agriculture has failed to enforce regulations intended to protect the public's health and the environment. VCE played an important role in defeating Vermont's only corporate animal feedlot, Vermont Egg Farms, Inc., from expanding to more than double its current size, and assisted residents of Charlotte in stopping the development of a factory farm in their beautiful valley. VCE worked with neighbors of the South Woodstock water buffalo farm who were successful in creating a community-based cheese-making operation instead of the lamb feedlot that was proposed for the site. VCE assists citizens in addressing the use of agricultural chemicals such as formaldehyde where they impact human health, and are supporting the efforts of Whey to Go as they deal with AgriMark/Cabot's land application of chemically-tainted wastewater.
- **Environmental Enforcement.** Vermonters concerned about the degradation of our environment need to speak up and to get involved. Vermont citizens are protecting our environment one neighborhood at a time.
- **Land use and Permitting.** VCE advises citizens about effective participation in regulatory proceedings, including local zoning, Act 250, and Public Service Board (PSB) cases. We have participated in permit reform discussions every time they come up, and are now the only environmental organization with a historical perspective on the various attempts to redesign the permitting processes. Most recently our work involves more PSB work than Act 250 work, and unlike Act 250, we find the PSB process to be nearly impossible for citizens to participate in effectively, unless they spend tens of thousands of dollars and are represented by legal counsel.

Click [here](#) to join VCE.

updated 5/2/14

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG #NM-1646

Application of Green Mountain Power Corporation)
for a Certificate of Public Good for an interconnected)
group net-metered wind turbine.)

RESPONSES TO FIRST SET OF INTERROGATORIES SERVED BY GREEN MOUNTAIN
POWER CORPORATION ON BRENDA MAMMOLITI

November 27, 2013

Q1. Please Identify any individual You consulted with on Your Prefiled Testimony, including, but not limited to those individuals who reviewed, advised on, edited, contributed to, provided materials for, said Prefiled Testimony. With regard to each individual, please Identify the following:

Q.1(a) The individual's name and address:

Response: Annette Smith and Matt Levin of Vermonters for a Clean Environment, 789 Baker Brook Road, Danby VT 05739

Q.1 (b) The individual's profession:

Response: Environmental advocates

Q.1(c) The individual's employer:

Response: Vermonters for a Clean Environment

Q. 1(d) The individual's contribution to Your Prefiled Testimony:

Response: They provided technical assistance is preparing documents and filing procedures, and understanding what prefiled testimony is.

Q.1(e) If applicable, the individual's academic publications, professional activities, and experience in the areas of shadow flicker and glare:

Response: Not Applicable

Q.2. Please provide in detail all of Your education and any and all professional experience related to shadow flicker from a wind turbine or other electric generation source.

Response: Life experience that comes from having lived with the turbine's impacts for all of 2012 and nearly all of 2013.

Q.3. Please provide in detail all of Your education and any and all professional experience in glare issues from a wind turbine or other electric generation source.

Response: Life experience that comes from having lived with the turbine's impacts for all of 2012 and nearly all of 2013.

Q. 4. Please provide in detail all of Your education and any and all professional experience in the areas of aesthetics.

Response: Life experience that comes from having lived with the turbine's impacts for all of 2012 and nearly all of 2013.

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG #NM-1646

Application of Green Mountain Power Corporation)
for a Certificate of Public Good for an interconnected)
group net-metered wind turbine.)

RESPONSES TO FIRST SET OF INTERROGATORIES SERVED BY GREEN MOUNTAIN
POWER CORPORATION ON MICHAEL MAMMOLITI

November 27, 2013

Q1. Please identify any individual you consulted with on your prefiled testimony, including, but not limited to those individuals who reviewed, advised on, edited, contributed to, provided materials for, said prefiled testimony. With regard to each individual, please identify the following:

Q.1(a) The individual's name and address:

Response: Annette Smith and Matt Levin of Vermonters for a Clean Environment, 789 Baker Brook Road, Danby VT 05739

Q.1 (b) The individual's profession:

Response: Environmental advocates

Q.1(c) The individual's employer:

Response: Vermonters for a Clean Environment

Q. 1(d) The individual's contribution to your prefiled testimony:

Response: They provided technical assistance in preparing documents and filing procedures, and understanding what prefiled testimony is.

Q.1(e) If applicable, the individual's academic publications, professional activities, and experience in the areas of shadow flicker and glare:

Response: Not Applicable

Q.2. You have submitted video(s) documenting the alleged effects of the turbine on your home environment as part of Your Prefiled Testimony. Please Identify the following:

Q.2(a) The equipment used to produce the video(s) including make, model, year of the video camera used to produce the video clips you submitted with Your November 12, 2013 Prefiled Testimony:

Response: JVC Everio, G Series Hard Drive Disc Recorder, Model #GZ-MG360

Q.2(b): The exact location of each video clip you submitted with Your November 12, 2013 Prefiled Testimony:

Response: Locations included: inside house for shadow flicker, inside garage for shadow flicker, outside on back porch and in back yard for shadow flicker, outside in back yard for glare.

Q.2(c) Any person(s) who assisted with or helped in any way with the video recording(s) You submitted with Your November 12, 2013 Prefiled Testimony:

Response: Annette Smith assisted in extracting videos from camera and uploading them to the internet.

Q. 2(d) Whether the video equipment You used to produce the video clips You submitted with Your November 12, 2013 Prefiled Testimony was modified in any way to amplify sound and if so, how:

Response: No sound amplification was used – sound is not relevant to this testimony.

Q.2(e) Whether the video equipment You used to produce the video clips You submitted with Your November 12, 2013 Prefiled Testimony includes the capability to zoom:

Response: Yes

Q.2(f) Each video clip You submitted with Your November 12, 2013 Prefiled Testimony that used the zoom capability identified above:

Response: Referring to the list in the Exhibit I filed with the Board on November 12, 2013, all the videos did include the use of zoom except #9-16, 18-20, 22-27, 29-36, 41-42, 46-50, 54-55, 72-73, and 124. Video #80 shows zoom and unzoomed sections.

Q.2(g) Whether the date and time shown on each video clip is accurate, and whether the camera was properly set to the correct date and time:

Response: No. Subsequent to filing the testimony and Exhibit, my wife and I discovered that the process of converting the videos resulted in making the time an hour off. That meant that if the video was labeled as being made at 6pm, in fact it was made at 5pm. This error is consistent for every video I submitted. The date is accurate.

Q. 2(h) Whether the date and time shown on Your November 12, 2013 Prefiled Testimony for each video clip is accurate:

Response: No – see answer to Q.2(g)

Q.3. Please provide in detail all of Your education and any and all professional experience related to shadow flicker from a wind turbine or other electric generation source.

Response: Life experience that comes from having lived with the turbine's impacts for all of 2012 and nearly all of 2013.

Q.4. Please provide in detail all of Your education and any and all professional experience in glare issues from a wind turbine or other electric generation source.

Response: Life experience that comes from having lived with the turbine's impacts for all of 2012 and nearly all of 2013.

Q. 5. Please provide in detail all of Your education and any and all professional experience in the areas of aesthetics.

Response: Life experience that comes from having lived with the turbine's impacts for all of 2012 and nearly all of 2013.

STATE OF VERMONT
PUBLIC SERVICE BOARD

DOCKET NUMBER CPG #NM-1646

IN RE: APPLICATION OF GREEN MOUNTAIN POWER
CORPORATION FOR A CERTIFICATE OF PUBLIC GOOD
FOR AN INTERCONNECTED GROUP NET-METERED WIND
TURBINE IN VERGENNES, VERMONT.

January 14, 2014
10:30 a.m.

112 State Street
Montpelier, Vermont

Technical Hearing held before the Vermont
Public Service Board's Hearing Officers at the
Third Floor Conference Room, People's United
Bank Building, 112 State Street, Montpelier,
Vermont, on January 14, 2014, beginning at
10:30 a.m.

P R E S E N T

STAFF: Tom Knauer, Utilities Analyst
Jake Marren, Staff Attorney

CAPITOL COURT REPORTERS, INC.
P.O. BOX 329
BURLINGTON, VERMONT 05402-0329
(802) 863-6067
(802) 879-4736 (Fax)

E-MAIL: Info@capitolcourtreporters.com

1 APPEARANCES:

2

3 AARON KISICKI, ESQUIRE
4 Appearing for Vermont Department of Public Service
5 112 State Street
6 Montpelier, Vermont 05620-2601

5

6 MICHAEL & BRENDA MAMMOLITI, PRO SE
7 16 High Street
8 Vergennes, Vermont 05491

7

8 JOSLYN WILSCHEK, ESQUIRE
9 Primmer Piper Eggleston & Cramer, PC
10 Appearing for Green Mountain Power Corporation
11 100 East State Street - P.O. Box 1309
12 Montpelier, Vermont 05601-1309

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1 just to set that foundation for this
2 document, initially.

3 HEARING OFFICER KNAUER: Do the parties
4 have any problem with Ms. Wilschek having a
5 very limited opportunity to -- for direct
6 testimony regarding the potential vegetative
7 screening plan?

8 MR. KISICKI: I have no objection.

9 BRENDA MAMMOLITI: No objection.

10 HEARING OFFICER KNAUER: Okay. Well,
11 I'll allow you to introduce this exhibit and
12 ask a few limited questions.

13 So to recap, Ms. Vissering first, Mr.
14 Giles second, Mr. Slaymaker third and Mr.
15 Lorraine fourth, followed by the Mammolitis.

16 So before we get to the witnesses, I
17 think it is now time to address VCE's motion
18 to intervene.

19 Have all parties received a copy of that
20 motion? Has the Department?

21 MR. KISICKI: I have.

22 HEARING OFFICER KNAUER: Have the
23 Mammolitis?

24 BRENDA MAMMOLITI: Um-hm.

25 HEARING OFFICER KNAUER: And has Green

1 Mountain Power?

2 MS. WILSCHEK: I -- yes, I received it
3 at 5:30 last evening. It came in an e-mail
4 at 4:22.

5 HEARING OFFICER KNAUER: Correct. And
6 have you since received a hard copy of that
7 or have you printed --

8 MS. WILSCHEK: I've printed one, yes.

9 HEARING OFFICER KNAUER: Great.

10 Does any party object to the motion of
11 VCE to intervene?

12 MS. WILSCHEK: GMP objects.

13 HEARING OFFICER KNAUER: On what basis?

14 MS. WILSCHEK: Well, to start, VCE has
15 put GMP in a very difficult position. I have
16 never seen a motion to intervene filed on an
17 eve of trial. Actually, technically, it
18 wasn't filed until -- today, I have not yet
19 received a hard copy but I left the office
20 early.

21 And because of this very untimely
22 motion, it really ties GMP's hands. It's so
23 untimely as the motion acknowledges it's
24 untimely, that I think on that basis alone,
25 the Board should deny it. The Board should

1 not be setting a precedence that on the eve
2 of a contested case, parties can move to
3 intervene.

4 VCE's motion is a complete disregard for
5 Board process. This contested case process
6 has been going on since November of 2012. VCE
7 participated just informally at the
8 prehearing conference. They've known about
9 this. They never contacted me at all about
10 this motion previous to filing it. I have
11 had no time to think about it other than late
12 last night. So, one, because of its
13 untimeliness, I think the Board needs to deny
14 it.

15 Two, the intervention rules, the Board
16 rule 2.209 sets forth very specific criteria
17 that a party needs to address and they didn't
18 address any of them. Their focus is on the
19 Mammolitis interests. It's not on their
20 organization's interest in this particular
21 case. They don't address alternative means
22 by which VCE's interest will be protected.

23 It's incredibly procedurally deficient
24 and I think on that basis, again, the Board
25 needs to deny their participation as a party.

1 It is highly prejudicial to GMP. We have had
2 no time to do discovery on them. I have no
3 idea what their role would be here. I
4 understand that -- I have no idea what their
5 participation would be in this hearing today.
6 It's incredibly last minute.

7 And then, lastly, it's a motion that
8 I've never seen before at the Board, which is
9 a motion by a pro se organization wanting to
10 act as a lawyer for a pro se party. And,
11 again, my hands are tied here. I don't think
12 the Board has discretion -- administrative
13 order number 41 from the Supreme Court dated
14 September 1st, 2012, Section II says that
15 practice of law without a license hereunder
16 is prohibitive and may be punished by
17 contempt. There is a Vermont Supreme court
18 Order in 123 Vermont 180 says, One is deemed
19 to be practicing law whenever he or she
20 furnishes to another advice or service under
21 circumstances which imply the possession of
22 use of knowledge and skill. The practice of
23 law will include all advice to clients and
24 all actions taken for them in matters
25 connected with the law.

1 And there's an ethics opinion I have
2 here that I will circulate to everyone which
3 discusses the same. And I -- and there's a
4 public policy reason for this, that it
5 actually protects the people who think
6 they're relying on legal advice. I don't
7 think the Board needs to go that far because
8 I think it needs to deny this based on
9 untimeliness, but I think the Board should --
10 and I'll pass copies of this out -- at least
11 look at these regulations.

12 HEARING OFFICER KNAUER: Thank you.

13 MS. WILSCHEK: Um-hm.

14 And, again, if this was done earlier and
15 I and GMP had an opportunity to speak with
16 the organization and understand how this
17 would work, our position may be different,
18 but I -- we do have to object based on the
19 untimeliness.

20 For example, I would think that they
21 would be doing some examination of GMP
22 witnesses and objecting and that's -- that's
23 lawyering for somebody else.

24 That's all I have.

25 HEARING OFFICER KNAUER: Thank you.

1 Does the Department have a response to the
2 VCE motion?

3 MR. KISICKI: The Department would echo
4 a lot of GMP's concerns. I think with
5 respect to timeliness, I think Joslyn did a
6 very good job of outlining the Department's
7 concerns. If -- I think the one thing that I
8 would add is, in reading VCE's motion it
9 appears to the Department that VCE's
10 rationale for seeking intervention is to aide
11 the Mammolitis in the technical hearing
12 process. With that being said, the
13 Mammolitis, so far in this proceeding, have
14 provided prefiled testimony, sur-rebuttal
15 testimony and also litigation discovery
16 adequately. I don't know that there's a
17 particular reason why VCE's intervention
18 would be required to aide at this point in
19 the process when they've seem to have done
20 quite well so far.

21 And, again, I think -- I haven't been
22 able to research the aspect,
23 that unauthorized practice of law aspect that
24 Ms. Wilschek has. I think this goes to how
25 the untimeliness of this motion has

1 prejudiced the parties.

2 If the parties were to have the time --
3 if the motion had been made in a timely
4 fashion, the Department has confidence and
5 probably view this much differently. But 14
6 hours simply isn't enough time to fully
7 evaluate the law regarding the intervention
8 motion.

9 HEARING OFFICER KNAUER: And it's my
10 understanding that the Mammolitis support
11 VCE's motion.

12 Is that correct?

13 BRENDA MAMMOLITI: Correct.

14 HEARING OFFICER KNAUER: Okay. And does
15 VCE have any response to the Department or
16 GMP?

17 ANNETTE SMITH: I want to thank you for
18 taking this time -- and I don't want to take
19 much time. It was the Board's sending out
20 request to GMP and -- which seemed untimely
21 to me and outside the prefiled testimony that
22 had already been put into the record. In
23 fact, new evidence has been put into the
24 record today. And it's raised real concerns
25 for us about the ability of the Mammolitis to

1 participate in this process at all.

2 I will tell you that the day the
3 prefiled testimony was due, I called them and
4 said, Are you ready and they said we don't
5 know what to do. So, we've helped them all
6 along the way. There's no secret about that.
7 We've been participating and, you know,
8 there's a whole fleet of lawyers and experts
9 sitting opposite to people who have
10 absolutely no ability to participate in this
11 process.

12 We only learned in August, sitting in
13 this room that corporations can participate
14 pro se. And we acknowledge we're not lawyers
15 and we may not have done this right.
16 Literally, yesterday, I was thinking, how can
17 we assist the Board in this process, because
18 what you've seen so far is how it's going to
19 go today, unless we are able to represent our
20 members, not as lawyers, but just -- they're
21 our members, then there's going to be times
22 where it's going to be very slow because
23 we're going to be advising the -- Brenda
24 questions to ask and things to say.

25 So we thought it would be a more

1 efficient process if we simply -- I could
2 imagine it taking twice as much time if we do
3 it the legal way that you're recommending,
4 that the -- GMP wants. Or, otherwise, it
5 will just be a much slower process.

6 But that -- that, you know, we're not
7 trying to play any games here. The same
8 questions would get asked whether or not it
9 was me asking or Brenda asking. Their
10 ability to represent themselves in this
11 proceeding is, I think, potentially risking
12 their rights.

13 And so, we're just concerned that, you
14 know, if this were Act 250, this is a normal
15 thing in Act 250 that people can designate
16 someone to represent them. The Board does
17 have a process where corporations can have a,
18 you know, person on their staff at the
19 direction of an officer participate in the
20 process. So, we're not trying to play any
21 games, we're simply trying to help this day
22 go a little easier for everyone.

23 MS. WILSCHEK: May I respond?

24 HEARING OFFICER KNAUER: (Indicating.)

25 MS. WILSCHEK: GMP has no objection to

1 you -- to VCE being in the room providing,
2 moral support like you -- like VCE mentioned
3 at the prehearing conference. But VCE is
4 asking to be a party in this case, which is
5 very different than sitting next to someone
6 and helping them out.

7 And the Board rule that she's discussing
8 about corporations being represented by a pro
9 se party, that has nothing to do with a pro
10 se party wanting to represent another pro se
11 party. I think that we're getting into a
12 little trouble.

13 HEARING OFFICER KNAUER: Okay.

14 ANNETTE SMITH: Well, we are a
15 membership organization and they're our
16 members. So that's how we view it, not that
17 we would be representing them, but we would
18 be acting on behalf of our members.

19 MS. WILSCHEK: And that's another reason
20 for objecting. She just articulated they
21 want to intervene as a party. We have had no
22 opportunity to do discovery on this entity.
23 We've been very accommodating to the
24 Mammolitis. We've been fine with three
25 extension requests they have asked for and

1 this is just going over the line.

2 HEARING OFFICER KNAUER: I have several
3 questions. VCE has been aware of this
4 proceeding at least since the date of the
5 prehearing conference, if not before.

6 Can VCE provide any reasoning about why
7 the motion was filed just last night -- or,
8 technically, this morning?

9 ANNETTE SMITH: Well, as I stated, we
10 only learned of this rule about corporations
11 being be able to participate, we only learned
12 about that in August. And, I'm sorry, I'm
13 just a little slow, but I only sort of put it
14 together yesterday that there was a
15 possibility that people would appreciate the
16 ability to have this hearing go more
17 efficiently.

18 And I did not want to find us in the
19 position of you saying to us, well, if you
20 had just filed something, we would have
21 something to look at. So, I was providing
22 you with something to look at and if you
23 don't want to have us assist today, we will
24 assist the Mammolitis in any way we can
25 without saying anything more. That's your

1 call. We're just trying to have an efficient
2 hearing.

3 But if we did it wrong, we would
4 appreciate guidance on how to do it right
5 next time. And I acknowledge the timeliness
6 of it but it literally was a -- you know, was
7 precipitated by the Board bringing -- asking
8 GMP to bring new information that the
9 Mammolitis have not really had any
10 opportunity to respond to. So if there's a
11 fairness issue here, there is that, too.

12 HEARING OFFICER KNAUER: Okay. My
13 understanding of this proceeding, and I'm
14 going to ask VCE to confirm this is that the
15 filing of this motion was the first filing
16 that VCE has made in this proceeding?

17 ANNETTE SMITH: That's correct. We have
18 been working with the Mammolitis since
19 January of 2012. So, we have two years of
20 history. We have gone on every site visit
21 and we have done what we often do, is assist
22 people without intervening. This is the
23 first time we've ever attempted to intervene
24 in the Board process because we didn't even
25 know we could until August.

1 HEARING OFFICER KNAUER: I believe that
2 Ms. Smith has already discussed this, but I
3 just want to make sure that I understand for
4 the record.

5 What would VCE be doing in this
6 proceeding if I were to grant the motion?

7 ANNETTE SMITH: We would be asking
8 questions and we would be asking the same
9 questions the Mammolitis are asking. I think
10 that what we wanted to do in addition is --
11 and I've sat through enough Board hearings to
12 know if something comes up that's not
13 anticipated, the ability to do a follow-up
14 question, you know, and we have to take the
15 time to write them down for Brenda to read.
16 So we'd just be making it go a little faster.

17 She has the same questions in front of
18 her that I do and it -- would be asking the
19 same questions.

20 HEARING OFFICER KNAUER: I think we'll
21 take about a five minute break and I can
22 confer with staff and then we'll reconvene.

23

24 (Whereupon, a short break was taken.)

25

1 HEARING OFFICER KNAUER: Okay. We're
2 back on the record. I considered VCE's
3 motion. I find that VCE has not demonstrated
4 a particularized interest that is not
5 accurately represented by other parties
6 already in the proceeding. In addition, I
7 find the motion to have been filed in an
8 untimely manner. On those grounds alone, I
9 feel like it should be rejected. And so I do
10 deny their motion to intervene.

11 VCE has noted that GMP has a whole team
12 here. And Ms. Wilschek, who's their
13 attorney, I have no doubt will be conferring
14 with them throughout the day. And so the
15 Mammolitis are, likewise, free to consult
16 with VCE throughout the day as consultants.
17 But I want to make clear the limits of that.
18 VCE may not represent the Mammolitis in the
19 proceeding today.

20 And, finally, VCE has the option to file
21 an amicus brief. Do you know what that is,
22 Ms. Smith?

23 ANNETTE SMITH: (Indicating.)

24 HEARING OFFICER KNAUER: So, if VCE
25 chooses, they can file an amicus brief when

1 we set the schedule for briefing.

2 So, having ruled on that, unless I'm
3 missing anything, I think we can get to the
4 witnesses. So, GMP please call your first
5 witness.

6 MS. WILSCHEK: Sure. Just need to
7 recalibrate here. GMP calls Jean Vissering.

8 HEARING OFFICER KNAUER: Ms. Vissering,
9 please raise your right hand.

10 Do you swear or affirm under penalty of
11 perjury that the testimony you are about to
12 give will be the truth, the whole truth and
13 nothing but the truth?

14 THE WITNESS: I do.

15

16 DIRECT EXAMINATION BY ATTORNEY WILSCHEK

17 Q. Good morning.

18 A. Good morning.

19 Q. Can you please state your name for the
20 record?

21 A. Jean Vissering.

22 Q. And for whom do you work for?

23 A. I am self-employed. I have my own
24 business, Jean Vissering Landscape Architecture.

25 Q. Okay. And do you recall drafting your

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

CPG #NM-1646

Application of Green Mountain Power Corporation)
for a Certificate of Public Good for an interconnected)
group net-metered wind turbine.)

**MICHAEL AND BRENDA MAMMOLITI'S PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

NOW COME Michael and Brenda Mammoliti ("the Mammolitis"), *pro se*, and submit the following brief in the matter referenced above.

TABLE OF CONTENTS

Introduction	p. 2
Findings and Discussion	
A. GMP states they sited the turbine in a way to minimize impacts, but in fact did nothing to ensure that would be the case once the turbine was operational.	p. 3
B. GMP's assessment that the impacts of shadow flicker would be limited was incorrect, biased to minimize the impacts, and depended on mitigation, which failed.	p. 4
C. While there is a disagreement between GMP and the Mammolitis about how to define "exposure", the Mammolitis' definition is reasonable, and is based on real-world observations of when an undue adverse impact is created and should be the basis for determining necessary mitigation.	p. 7
D. A fixed time shut down period for the turbine is not an appropriate or effective remedy for shadow flicker.	p. 11
E. Glare is substantially interfering with the Mammolitis' ability to enjoy their property, and must be addressed by means other than the mitigation software.	p. 12
F. GMP has provided no explanation for their dismissal of glare impacts, and therefore the dismissal should be ignored.	p. 13
G. The City of Vergennes treats glare as a regulated (negative) impact	p. 14

in town zoning regulations, demonstrating that glare is recognized to be a serious problem, especially for people living in a residential neighborhood.

H. The mitigation strategy discussed at the evidentiary hearing – planting a series of trees along the property line – is an uncertain, incomplete, and insufficient remedy. p. 15

I. GMP has made little or no effort to discuss options or implement reasonable solutions to shadow flicker or glare. p. 16

Conclusion: Possible Remedies, Proposed Solution p. 17

INTRODUCTION

In its Order of November 15, 2012, the Public Service Board (“Board”) established the scope for this evidentiary hearing, stating that,

it would appear that the potential for shadow flicker and glare to have an impact upon the aesthetics and scenic and natural beauty of the area may not have been adequately addressed in GMP's original application. [Order, p. 1]

The facts in this case clearly show that in siting and operating the turbine, Green Mountain Power (GMP) did not take into account the potential for impacts on people whose homes are close by. In its application for a Certificate of Public Good (CPG) and testimony to the Board, GMP minimized the potential impacts. Once the turbine turned out to cause shadow flicker and glare that substantially interfered with the Mammolitis’ ability to peacefully enjoy their home, GMP’s only response to the Mammolitis’ complaints was to install software that was supposed to turn off the turbine for a limited period every day, but never actually worked.

The facts show that the impacts were and are significant, and have not been adequately addressed. The Board must require GMP to take significant steps to mitigate these undue adverse impacts. If GMP chooses not to undertake these steps, the turbine should be removed.

FINDINGS AND DISCUSSION

A. GMP states they sited the turbine in a way to minimize impacts, but in fact did nothing to ensure that would be the case once the turbine was operational.

Findings:

1. GMP claims they sought to minimize disturbances and impacts to neighbors when siting the turbine. [Lorraine prefiled p. 4]
2. GMP did no analysis on potential shadow flicker impacts before the turbine began operating. [Lorraine hearing testimony p. 204]
3. Attached to the original application was a document titled “Frequently Asked Questions, Green Mountain Power and Northern Power Systems Community Wind Program” (“FAQ”). This document was also circulated to the public. [Lorraine hearing testimony p. 207]
4. GMP had no basis for claiming in the FAQ document that the turbine would create “minimal” shadow flicker impacts¹. [Lorraine hearing testimony p. 210]

Discussion:

GMP created this problem by siting the turbine without first evaluating the potential risks to the community and assessing any potential liability they would be creating for themselves. The subsequent complaints, and the Board’s initiation of this proceeding after impacts were witnessed in person by the Board’s Hearing Officer and Department of Public Service staff, indicate that GMP’s assumptions were flawed, inaccurate, and not supported by fact.

¹ The actual language from the document – “The flicker and acoustic impacts of Northern Power 100 turbines have been shown to be minimal.”

B. GMP's assessment that the impacts of shadow flicker would be limited was incorrect, biased to minimize the impacts, and depended on mitigation, which failed.

Findings:

5. The analysis of project impacts performed by GMP's consultant was based not on a comparison to the landscape without any turbine, but rather an analysis of project impacts after the turbine was up and running and an established part of the landscape. [Vissering pre-filed p. 4]

6. GMP's consultant used "the general outlines" of the Quechee Analysis as the basis for their evaluation of the impacts of shadow flicker, a method of analysis that examines the "characteristics of the site and surroundings as they currently exist". [Vissering pre-filed p. 4]

7. The impacts of shadow flicker are predictable and can easily be controlled or corrected by turning off the turbine(s). [Vissering pre-filed p. 6]

8. Despite the fact the mitigation software had already failed and shadow flicker had been occurring when it was not supposed to be occurring, GMP's expert nevertheless testified that mitigation software, designed to turn the turbine off for specific periods during the day, would result in no shadow flicker in the Mammolitis' house or the outdoor areas immediately adjacent to it. [Vissering pre-filed p. 7]²

9. GMP's consultant's conclusion that the impact of the shadow flicker would not be unduly adverse was dependent on the successful installation and operation of mitigation software to shut down the turbine at certain times. [Vissering hearing testimony p. 59 and 60]

² Note that Ms. Vissering's pre-filed testimony is dated 9/20/13, and therefore took place well after GMP had been made aware that the mitigation software was not functioning as intended. See Findings 10 and 11, below.

10. GMP claimed that they had fixed problems with the malfunctioning mitigation software in June 2013. [Brenda Mammoliti pre-filed p. 6]

11. The mitigation software was not fixed as of June 2013 and in fact did not work as promised at all in 2013, due to unresolved programming problems. [Giles hearing testimony p. 154]

12. The turbine was only shut down on two occasions during 2013, for one evening each time. [Brenda Mammoliti pre-filed p.8] [Brenda Mammoliti hearing testimony p. 251]

13. Northern Power Systems (“NPS”) has no established system in place to ensure that the mitigation software works. [Giles hearing testimony p. 165-6]

14. Efforts to correct the mitigation software were prompted by the Mammolitis’ complaints, not by any internal compliance process that GMP or NPS had in place. [Lorraine hearing testimony p. 199-200]

15. The Mammolitis have experienced shadow flicker at the receptors identified by the GMP study at times when the study indicates shadow flicker should not be occurring. [Michael Mammoliti surrebuttal p. 6]

Discussion:

GMP decided to analyze the impacts of the turbine only after it had been operating for many months, after the Mammolitis informed the Board that they were being drastically affected

by the noise, glare, and flicker of the turbine. Since the turbine was therefore at that point an “existing condition” as Ms. Vissering put it [Vissering pre-filed p. 4], the analysis treated shadow flicker and glare as the only additions to the aesthetics that might create adverse impacts.

This construct means that Ms. Vissering apparently considered only the impact of the moving turbine as opposed to a non-moving turbine. This approach is not correct, but rather is biased and fatally flawed.

The Quechee Analysis is used to determine whether a proposed project would have an undue adverse effect on aesthetics. When used after projects have been built, the presumption applied is that the project does not exist. For instance, when a project that needed an Act 250 permit is constructed without first having obtained a permit, it is evaluated as though the project had not yet been constructed. That is, the project itself – even if already in existence – is not considered part of the existing context of the area for the purpose of determining whether the aesthetic impacts of a project would be unduly adverse.³

If the Quechee Analysis is going to be used to determine whether the impacts from the turbine are unacceptable, then the analysis has to compare the landscape without the turbine to the landscape with the addition of the turbine. Thus under the first prong of the Quechee Analysis, a determination of whether the turbine “fits” into the landscape must take into account what the Mammolitis’ experience was before the turbine was installed.

By not considering what the Mammolitis’ experience was without the turbine at all, GMP’s analysis creates an assumption that the turbine is acceptable and not an addition to the landscape. While the Mammolitis understand that this current proceeding focuses on the impacts of shadow flicker and glare, they could not be more clear in their position that it is the turbine

³ Re: Bernard and Suzanne Carrier, #7R0639-EB, Findings of Fact and Conclusions of Law at page 10 (Oct. 5, 1990)

itself, and all of its impacts, which have negatively affected their lives. As is stated later in this brief, for years before the turbine was installed, the Mammolitis enjoyed the full use of their property, including their second floor and back yard.

The testimony provided by all parties clearly indicates that GMP relied upon and promised that the shadow flicker problem would be resolved by the installed mitigation software, but the solution failed. That failure was ignored by GMP's consultant who relied on the software in their declaration that impacts would be minimal and not unduly adverse, and was only recognized because of the Mammolitis' complaints. Unless significant accountability measures are put into place, there is no reason to believe that future attempts at mitigation via software will succeed in addressing shadow flicker on the Mammolitis' property.

C. While there is a disagreement between GMP and the Mammolitis about how to define "exposure", the Mammolitis' definition is reasonable, and is based on real-world observations of when an undue adverse impact is created and should be the basis for determining necessary mitigation.

Findings:

16. GMP's consultants state that there is impact from shadow flicker outside the home only when the shadow flicker falls across specific areas close to the home – the deck and nearby lawn, and the front entry area. [Vissering pre-filed p. 7]

17. GMP's consultants relied on an analysis of events at three locations – inside the Mammolitis' residence on the first floor, the wall of their garage, and their deck – to determine the impact from shadow flicker. They did not consider what could be seen from those points. [Slaymaker pre-filed p. 5, 7]

18. GMP's consultant relied on interior modeling that considered exposure on only the first floor of the Mammolitis' house. [Slaymaker hearing testimony p. 115]

19. GMP's consultant defined negative impacts of flicker as being only felt in connection to "light entering a room". [Slaymaker pre-filed p. 5]

20. GMP's consultants and NPS determined that the shadow flicker mitigation software should be functioning in 2013 only between May 19 and July 22.⁴ [Slaymaker pre-filed p. 9]

21. A determination of whether or not the impacts of shadow flicker are undue is based on how the length of the exposure compares with the "industry standard". [Slaymaker pre-filed p. 8]

22. The industry standards for exposure to shadow flicker are being re-examined and 30 minutes per day is increasingly accepted as the standard. [Slaymaker hearing testimony p. 109]

23. The Mammolitis consider exposure to shadow flicker to be possible any time it is occurring "anywhere on [their] property". [Brenda Mammoliti hearing testimony p. 244]

24. The Mammolitis experience this exposure as early as March and through September, not only during mid-May, June and July. [Brenda Mammoliti pre-filed p. 5, 7] [Michael Mammoliti pre-filed addendum]

⁴ In fact, the modeling submitted by GMP's consultant in their pre-filed testimony indicates that shadow flicker will impact the Mammoliti home one day later, on July 23, and outside areas as early as May 12 and as late as July 30. [Slaymaker pre-filed Exhibit GMP-WS-2, "Wind Farmer" p. 4, 9, 10]

25. Since moving into their home in January 2002 and prior to the turbine installation, the Mammolitis enjoyed living in their home and using the peaceful outside spaces around their home, including the backyard and patio. [Michael Mammoliti pre-filed p. 2] [Brenda Mammoliti pre-filed p. 2]

26. This enjoyment included looking out at their property, observing nature, working in the yard, and watching wildlife. These activities have all been disrupted by shadow flicker occurring at places other than the “receptor” locations identified in the GMP consultant’s study. [Michael Mammoliti sur-rebuttal p. 2, 7] [Brenda Mammoliti pre-filed p. 2, 3]

27. Because of the shadow flicker, the Mammolitis have been unable to use their back yard and porch in the same manner as they did before the turbine was installed. [Michael Mammoliti pre-filed p. 7] [Brenda Mammoliti pre-filed p.7]

28. The shadow flicker makes it hard for the Mammolitis to concentrate or relax, is distracting, disruptive, and annoying, both inside and outside their home. [Brenda Mammoliti prefiled testimony p. 3, 4] [Michael Mammoliti prefiled p. 3, 4]

29. The Mammolitis experience shadow flicker in their second floor bedroom. [Michael Mammoliti hearing testimony p. 281]

30. The Mammolitis experience exposure to shadow flicker for as long as an hour a day. [Brenda Mammoliti hearing testimony p. 245]

31. At no point did any party in this proceeding claim, argue, or testify that the Mammolitis' use of their upstairs or outdoor spaces including but not limited to the "receptor locations" was unusual, occurred outside the normal times of the year when Vermonters normally used outdoor spaces, or was unreasonable or excessive.

Discussion:

The definition of exposure used by GMP and its consultants is overly limited, and does not take into account how the Mammolitis' (or any) property is used. As a static, computer-generated model, it ignores the fact that flicker on other outdoor spaces can be viewed from many areas of the property, including the receptor points used for the model.

Similarly, the GMP analysis of exposure was limited to one location inside the home, despite the fact that shadow flicker was experienced in multiple locations. Both of these limitations are unreasonable and unrealistic, and minimize the real-world impacts created by the presence of shadow flicker as experienced by people exposed to it.

Further, there was no testimony provided to suggest that the Mammolitis' negative reactions to repeatedly seeing and being exposed to shadow flicker on various parts of their property was unreasonable, unusual or extreme.

The Mammolitis' exposure in 2013 lasted for longer than the industry standard would allow. Their exposures occurred as they were undertaking activities that were normal and reasonable, even expected of a Vermont resident. The introduction of the shadow flicker from the wind turbine into the aesthetics of the areas in and around their home has been a substantial change that is clearly unduly adverse.

The Mammolitis' objections to shadow flicker exposure are reasonable and reflect their real-life situation. Any mitigation for shadow flicker must take into account their definition of exposure and the related impacts.

D. A fixed time shut down period for the turbine is not an appropriate or effective remedy for shadow flicker.

Findings:

32. Between May and September, the time of sunset at the Mammolitis' home varies from around 6:45p to around 8:45p. [Brenda Mammoliti surrebuttal p. 4]

33. On August 5, 2013, the Mammolitis and GMP's consultant witnessed shadow flicker on trees on the Mammoliti property between 6:40p and 7:30p, outside the shutdown period used by the mitigation software. [Brenda Mammoliti surrebuttal p.5]

34. GMP's consultants acknowledged that the sun's location in the sky at one specific time is different over the course of the year. [Vissering hearing testimony p. 35] [Slaymaker hearing testimony p. 99-100]

Discussion:

Even if the mitigation software offered by GMP worked, turning the turbine off at the same hour of the day regardless of the location of the sun and the time it creates shadow flicker will fail to eliminate the impacts.

A fixed shut down period for the turbine is scientifically flawed and contradicts common sense, and will continue to result in excessive shadow flicker inside and outside the Mammolitis'

home. If the use of software is pursued, the timing must be adjusted to reflect the changes in time of sunsets over the course of the year.

E. Glare is substantially interfering with the Mammolitis' ability to enjoy their property, and must be addressed by means other than the mitigation software.

Findings:

35. Because of the glare from the turbine blades, the Mammolitis have been unable to use their back yard and porch in the same manner as they did before the turbine was installed. [Michael Mammoliti pre-filed p. 7]

36. At times the glare shines directly in the Mammolitis' eyes, and prevents them from enjoying the view of the mountains or from sitting outside facing the turbine. [Michael Mammoliti surrebuttal p. 2-3] [Brenda Mammoliti pre-filed p. 4] [Brenda Mammoliti surrebuttal p. 2]

37. The Mammolitis have experienced glare on many days of the year, as evidenced by the more than 100 videos submitted, including on days before and after those when the mitigation software was supposed to address shadow flicker issues, and at times of the day when shadow flicker does not occur. [Michael Mammoliti prefiled Addendum]

Discussion:

Glare from the turbine is creating an undue adverse impact, and must be eliminated if the Mammolitis are to be able to use their property in a reasonable and peaceful manner.

Software that automatically turns the turbine off at a fixed time of the day during only several months of the year when shadow flicker will occur will not eliminate the glare that occurs at other times, even if the software were to operate effectively.

F. GMP has provided no explanation for their dismissal of glare impacts, and therefore the dismissal should be ignored.

Findings:

38. GMP's consultant characterized the glare from the turbine as being "of limited area", though that phrase is not defined. [Vissering pre-filed p. 7]

39. GMP's consultant described the turbine as having "a relatively small surface area", though the basis for or importance of that comment is not given. [Vissering pre-filed p.8]

40. GMP's consultant stated that it was unlikely the turbine would create "a large area of bright reflectivity". [Vissering pre-filed p.8]

41. No testimony was submitted by any witness to explain why the size of the glare spot, the turbine, or the area of reflectivity determines whether or not the glare created has an undue adverse impact.

Discussion:

GMP provided no explanation for why their descriptions of the glare and the mechanics behind its creation should be the basis for minimizing and/or dismissing the impact of glare on the Mammolitis. In fact, GMP's consultant indicated that they were aware of the fact that glare

issues are recognized as a problem by the regulatory community. [Vissering hearing testimony p. 74] Germany has acknowledged and solved these problems, sometimes called a “disco effect”, by requiring the use of a matte, non-reflective paint on turbine blades to reduce glare from the blades. [Brenda Mammoliti surrebuttal testimony Appendix 2]

GMP’s efforts to minimize the impacts should be disregarded by the Board, and solutions to glare used elsewhere should be considered.

G. The City of Vergennes treats glare as a regulated (negative) impact in town zoning regulations, demonstrating that glare is recognized to be a serious problem, especially for people living in a residential neighborhood.

Findings:

42. The City of Vergennes’ “Zoning and Subdivision Regulations” (“Zoning Regs”) prohibits any “disturbances”, including glare, that are “uncharacteristic of residential neighborhoods”, such as the one where the Mammolitis’ house is located. [Zoning Regs p. 28]⁵

43. The Zoning Regs indicate that for subdivisions, landscaping may be required to provide screening that will reduce the impacts from glare. [Zoning Regs p. 49]

44. The Zoning Regs prohibit development that produces glare that would constitute a nuisance to other property owners. [Zoning Regs p. 79]

⁵ <http://vergenes.org/wp-content/uploads/2010/08/Zoning-and-Subdivision-Regulations-2012-FINAL.pdf>

Discussion:

Glare is acknowledged to create negative impacts and is regulated by land use regulations in the municipality where the turbine was built. The Board should do the same in its role as the land use regulatory body for electricity generation projects.

H. The mitigation strategy discussed at the evidentiary hearing – planting a series of trees along the property line – is an uncertain, incomplete, and insufficient remedy.

Findings:

45. GMP's consultant testified that the trees described in the proposal discussed at the evidentiary hearing will take "about 30 years ... maybe 40" years to grow to full height, which was testified to be 50-60 feet. [Vissering hearing testimony p. 56]

46. There was no testimony provided at any time during the proceedings regarding how tall or wide the trees would need to be to fully or partially shield the Mammolitis' property from shadow flicker.

47. Due to soil conditions, the ability of the trees to grow at all in the proposed location is uncertain. [Vissering hearing testimony p. 28] [Lorraine hearing testimony p. 212-3]

48. The proposed trees would do little or nothing about glare, especially during the months when foliage was limited or absent. [Vissering hearing testimony p. 30]

Discussion:

The tree planting proposal presented by GMP at the evidentiary hearing is not well thought out. The proposed trees may or may not grow, and there is no information regarding whether they would successfully block either shadow flicker or glare from the Mammolitis' property. Without evidence that trees would accomplish the goal of blocking the glare, there is no basis for this proposal, and it is therefore an insufficient remedy to both the shadow flicker and glare issues. If the proposal were to fail, the trees could become an additional eyesore on an already adversely impacted area.

The Board should not require GMP to plant trees as possible mitigation unless there is credible evidence that they would actually mitigate the shadow flicker and glare.

- I. **GMP has made little or no effort to discuss options or implement reasonable solutions to shadow flicker or glare.**

Findings:

49. GMP provided no testimony indicating that it was aware of or considered that there were differing opinions about what areas of the Mammolitis' property impacted by shadow flicker were to be considered for mitigation.

50. GMP provided no testimony showing that it has considered re-programming the mitigation software to shut down the turbine during the times that the sun actually sets, or to mitigate impacts during the times earlier and later in the year when the Mammolitis have experienced shadow flicker.

51. GMP officials discussed the concept of planting screening trees with the Mammolitis in early 2013, and were informed by the Mammolitis at that time that trees would not grow well in the area where tree planting is now proposed. [Lorraine hearing testimony p. 213-4]

52. Neither GMP officials nor GMP's consultant discussed the tree screening proposal introduced at the evidentiary hearing with the Mammolitis. [Lorraine hearing testimony p. 214]
[Brenda Mammoliti hearing testimony p. 251]

Discussion:

The Mammolitis' objections to the operational impacts of the turbine are well-known, and long-standing. GMP has had ample opportunities to try to better understand and address these concerns. The record over the past two years clearly shows that GMP has made little or no effort to devise an operational plan or mitigation that would address the Mammolitis' concerns, which have been demonstrated to be reasonable. As the Board considers how to resolve these issues, the fact that GMP did not do so on its own volition should be taken into account.

CONCLUSION: POSSIBLE REMEDIES, PROPOSED SOLUTION

If GMP is to mitigate the undue adverse shadow flicker and glare problems created by the Vergennes turbine, it must undertake at least two measures. The turbine would have to be turned off for longer periods of the day and of the year, during the spring and summer, when shadow flicker impacts a much larger part of the Mammolitis' property, as opposed to just the three locations identified in its consultant's study. An accountability system to assure the turbine is being shut off as promised would have to be provided.

Second, the turbine blades would need to be painted with a matte finish or replaced with blades with a matte finish.

Implementing these measures would effectively resolve the shadow flicker problems and would reduce the glare but may not eliminate that problem from the turbine.

The Mammolitis recognize that GMP may find these remedies unsatisfactory. However, the choice to site the turbine where it is located was entirely GMP's. The Mammolitis made every effort to alert GMP to the likelihood of problems with the site before the turbine was installed, and have presented ideas for resolving the situation. GMP has almost entirely ignored this input.

Given the facts presented here – GMP's failure to evaluate the potential impacts of the turbine before deciding to install it or keep its promises to curtail the turbine once impacts were evident, the limited options for reasonable mitigation, and the extreme disruption the turbine causes to the Mammolitis' ability to comfortably live in their home or enjoy their back yard – the Board has no choice but to require GMP to paint or replace the blades with a matte finish and implement longer shut-down times, with accountability measures put into place to ensure that they actually work. If GMP chooses not to undertake these steps, the turbine should be removed.

Dated at Vergennes, VT this 14th day of March, 2014.

Brenda Mammoliti

Brenda Mammoliti
16 High Street
Vergennes, VT

STATE OF VERMONT
PUBLIC SERVICE BOARD

DOCKET NUMBER 8585

INVESTIGATION INTO METEOROLOGICAL TOWER AT
700 KIDDER HILL ROAD IN IRASBURG, VERMONT

October 6, 2015
9:30 a.m.

112 State Street
Montpelier, Vermont

Prehearing Conference held before the Vermont
Public Service Board, at the Third Floor Conference Room,
People's United Bank Building, 112 State Street,
Montpelier, Vermont, on October 6, 2015, beginning at 9:30
a.m.

P R E S E N T

HEARING OFFICER: George E. Young
Deputy General Counsel

Monica Stillman
Environmental Analyst

CAPITOL COURT REPORTERS, INC.
P.O. BOX 329
BURLINGTON, VERMONT 05402-0329
(802/800) 863-6067
E-mail: info@capitolcourtreporters.com

A P P E A R A N C E S

GEOFFREY A. COMMONS, ESQUIRE

AARON KISICKI, ESQUIRE

Appearing for the VT Department of Public Service
112 State Street
Montpelier, VT 05620-2601

LESLIE A. CADWELL, LEGAL COUNSELOR AND ADVOCATE, PLC

751 Frisbie Hill Road
Castleton, VT 05735

ROBIN KAY, Chairman of the Selectboard

Irasburg Selectboard
Irasburg, VT

SENATOR ROBERT STARR

1 would be at 2 o'clock in the afternoon. As I said
2 that's tentative. We'll have to wait and see who
3 intervenes, how many parties, as to whether I
4 conclude that makes sense.

5 I think that summarizes what was off the
6 record. Ms. Cadwell, you had a request concerning
7 Ms. Smith.

8 MS. CADWELL: I did and I just want the
9 record to reflect that Annette Smith from Vermonters
10 For a Clean Environment is here, and I had asked Ms.
11 Smith what her role is and I would like to get that
12 on the record.

13 MR. YOUNG: If there's no objection to
14 it, that's fine by me.

15 MS. SMITH: My name is Annette Smith.
16 I'm Executive Director of Vermonters for a Clean
17 Environment and I serve as a consultant to citizens
18 and towns who need help understanding the Public
19 Service Board process.

20 MS. CADWELL: And your role here is as
21 an advisor to the Selectboard?

22 MS. SMITH: I'm a consultant to the
23 Selectboard.

24 MS. CADWELL: On the Public Service
25 Board process in this particular case?

1 MS. SMITH: Yes.

2 MS. CADWELL: Okay. Thank you.

3 MR. YOUNG: So is there anything else we
4 need to do this morning? Hearing nothing, thank you
5 all for your time and we're adjourned.

6 (Whereupon, the proceeding was
7 adjourned at 10:10 a.m.)

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**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Docket No. 8148

Petition of Barton Solar LLC for a certificate of public
Good, pursuant to 30 V.S.A. 248, authorizing)
Construction and operation of a 1.89 MW AC solar)
Electric generation facility, to be located on Glover)
Road in the town of Barton, Vermont

ANTHONY MENARD'S ADDITIONAL RESPONSES TO BARTON SOLAR, LLC
FIRST ROUND OF DISCOVERY QUESTIONS

Anthony Menard submits these additional responses to Barton Solar's first round of discovery question. These responses replace objections submitted in previous responses.

1. Identify by name, address and telephone number each person who assisted in the preparation of your answers to these interrogatories, requests to produce and requests to admit.

My wife and I were the only parties who provided factual information. Vermonters for a Clean Environment (Annette Smith and Matt Levin) helped us understand the format for the interrogatories. VCE's address is 789 Baker Brook Road, Danby, VT 05739. Its phone number is 802-446-2094.

2. Identify by name, address and telephone number each person that is assisting you with understanding how to participate as a party in this proceeding.

Annette Smith

789 Baker Brook Road

Danby, VT 05739

802-446-2094.

4. What is your educational history, including in your answer the name of the educational institution you attended, dates of attendance, course of study and degree earned?

I have no post-secondary education.

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Docket No. 8148

Petition of Barton Solar LLC for a certificate of public
Good, pursuant to 30 V.S.A. 248, authorizing)
Construction and operation of a 1.89 MW AC solar)
Electric generation facility, to be located on Glover)
Road in the town of Barton, Vermont

**MONICA MENARD'S ADDITIONAL RESPONSES TO BARTON SOLAR, LLC
FIRST ROUND OF DISCOVERY QUESTIONS**

Monica Menard submits these additional responses to Barton Solar's first round of discovery question. These responses replace objections submitted in previous responses.

1. Identify by name, address and telephone number each person who assisted in the preparation of your answers to these interrogatories, requests to produce and requests to admit.

The only parties who provided factual information related to this case are myself and my husband, and those who have filed pre-filed testimony. Vermonters for a Clean Environment (Annette Smith and Matt Levin) assisted me in understanding the format, such as the requirement to list one question and answer per page and printing single-sided. VCE's address is 789 Baker Brook Road, Danby, VT 05739. Its phone number is 802-446-2094.

2. Identify by name, address and telephone number each person that is assisting you with understanding how to participate as a party in this proceeding.

Annette Smith

789 Baker Brook Rd.

Danby, VT 05739

802-446-2094

Selectmen's Draft Agenda/Minutes
September 28, 2015
6:00 p.m.

Present: Chairman Larry Labor, Robert Guyer, Thomas Bonneville, and TammyLee Morin, Clerk to the Board.

Others Present: David Halquist from VEC, Chris Blais, Jim Mcwain, Joyce Wieselmann, Bruce Barter, William Bilowus, Molly Carey Bilowus, Bob Kern, Candy Moot, Chuck Nichols, Dave Hallquist, Beth Torpey, David Joyce, Peggy Barter, Carol Rehor, Dave Klein, Ed Rehore, Virginia Bergh.

1. Minutes to meeting of September 14, 2015 to review and approve as written.

A motion was made and seconded to approve the minutes as written.

2. To let any guest speak.

Dave Hallquist from VEC came to clarify some questions the Town had on Mr. Blittersdorf's Solar Project. He discussed VEC's interconnect issues with the project re: line upgrade to 3 phase, approximate cost of such etc. He also stated that the VEC preferred to site alternative energy projects closer to the net metered recipient re: Jay Peak. He also talked about the communications between the developer and Mr. William Stenger CEO of Jay Peak Inc. and VEC. He also gave a brief outline of the economic impact on the grid system when the utility is to receive alternative power.

3. Amend/correct minutes of July 13, 2015 as asked by auditor Susan Maginniss. #10 Accounts payable and Payroll amounts need to be reversed. AP was 5,191.56 and PR was 2,441.99.

A motion was made and seconded to approve the correction to the minutes of July 13, 2015.

4. Road sign on Toad Pond Road per request of Derby Elementary School's Principal, Tabled from last meeting of 09-14-15 #5.

Shawn Austin and Mr. Buchanan of Derby Elementary School will decide the best place to put the caution sign on Toad Pond road as requested by Mr. Buchanan.

5. Information from Kriston Mason Re: Solar Plants. (FYI)

Read & Reviewed found very interesting.

6. Town Highway Structures Program for the Board to review and Larry to sign from Shawn Austin.

A motion was made and seconded to approve and sign the Postponement of the Town Highways Structure Program until October of next year.

7. Bob Durgin requesting to get a new heater at the Transfer/Recycling Center?

A motion was made and seconded to approve to buy a new heater for the Transfer/Recycling Station.

8. Orders #150012 to review and sign.

A motion was made and seconded to approve and sign warrant #150012 in the amounts of

Payroll:	\$ 7,544.88
Acct. Payable:	\$ 8,077.02

Other Business:

Clerk TammyLee Morin requested the Meeting of October 12, 2015 be changed to Tuesday October 13, 2015 due to Columbus Day.

Discussion of changing the web master. Chuck Nichols was asked if he would like to and will reply by next meeting.

E-mail from Danika Frisbie on specific funding requests for the implementation of Universal Recycling, to assist in gaging overall funding needs, this was forwarded to Paul Tomasi 2 weeks ago.

Janet Selby asked where things stood with the school. Larry Labor said that there has been no response back from Turning Points at this time on the lease offer.

The Town has decided to intervene to the Public Service Board and will have the paper work in by 3:00 Wednesday October 30th 2015

There was conversation and concern on whether or not Mr. Blittersdorf has thoughts of putting up Wind Towers and by majority everyone thought that a committee should be formed and really dig into and make ourselves more educated on this kind of project and that the Town Plan should/needs to be changed and that things need to move and was suggested something done before Town meeting.

TammyLee will call the League to see if a vote with Australian ballot could be done.

A residential domestic animal issue - Joe Moeykins the Town Animal Control Officer has interviewed the complainant and that this is an on going complaint. Joe is still working on this problem.

Attorney compensation to Annette Smith who is a 501C3 corporation and is the executive director of Vermonters for Clean Environment. Ms. Smith helped tremendously on the Town's

document that was filed with the PSB (Public Service Board) in opposition to the Application of Seymour Lake Solar, LLC. (Tabled until next meeting of October 13, 2015.)

· A motion was made and seconded to adjourn the meeting at 7:55 p.m.

Select Board Draft Agenda/Minutes
October 26, 2015

Present: Larry Labor Chair of the Board, Robert Guyer, Thomas Bonneville and TammyLee Morin, Clerk to the Board.

Others present: Penelope Thomas.

Penny Thomas asked to be put on the agenda re: Thanking the Board.

1. Minutes of the meeting of October 13, 2015 to review and approve as written.

A motion was made and seconded to approve the minutes of 10-13-15 as written.

2. Minutes of the Special Select Board meeting of October 15, 2015 to review and approve as written.

A motion was made and seconded to approve the minutes of 10-15-15 as written.

3. Minutes of the Special Select Board meeting of October 19, 2015 to review and approve as written.

A motion was made and seconded to approve the minutes of 10-19-15 as written.

4. To allow any guests to speak.

Penny Thomas first of all wanted to Thank the Board for all their hard work they are putting into the Green Energy.

Penny then asked where the Town stood in stopping the wind turbines from coming to Town. The Board answered by telling Penny that they are in an interveinal status with the Public Service Board and that the PSB is so backed up they couldn't say how long it would be before we would get a response from them. Penny Thanked the board for answering her questions.

5. Michael Desena has given a sound system to the Town of Morgan minus a microphone. He said we would have to purchase one of those but he would like the Town to have the rest of the system, the family no longer uses it.

A motion was made and seconded to have Robert Guyer bring the system to Mike Routhier's music store to look at and match a microphone to it.

6. A certificate of Fact to change the Grand list from the lister's office to review and sign.

Read and reviewed and signed.

7. A Thank you card from Worth's Seamless Rain Gutters, Inc. for letting them serve the Town.

Read, reviewed and appreciated.

8. Appropriation request from Green Up Vermont in the amount of \$50.00

A motion was made and seconded to raise the amount to \$100.00. Tammy will ask Tammy LaCourse if she will continue as coordinator this year.

9. Resident Complaint Re: Kevin Fries vs. neighbors, Four Wheel Drive Road.

Mr. Fries is concerned about the mess at the neighbor's house, this is a rental property owned by Robert Lund. Steve Matson has been notified and will meet with Mr. Lund to affect a remedy to the situation. There are numerous cars in the driveway and yard and lots of stuff all over the yard, he would like to see it cleaned up.

Zoning Officer Steve Matson will send a letter to Mr. Lund requesting the cleanup and if no response he will proceed with the fines.

10. Orders #15015/16/17 to review, approve and sign.

#15015	
Payroll	\$ 7,289.27
Accounts Payable	\$ 63,463.51
#15016	
Payroll	\$ 848.07
Accounts Payable	\$ 126.76
#15017	
Payroll	\$ 426.24
Accounts Payable	\$ 83.61

A motion was made and seconded to approve orders in the amounts stated above.

Other Business:

Martin Davis was inquiring about the position of his job as custodian at the E. Taylor Hatton School since the construction started in the school for the lease NFI.

The Board said to let Mr. Davis know to temporarily discontinue cleaning the building until they notify him and to give him NFI contacts for future work. At this point there is no Occupancy date.

A motion was made and seconded to approve for Tom Bonneville to attend a meeting for Solar Wind and siting regulations on October 30, 2015 if he so chooses. Larry and Rob will not be able to attend.

Larry Labor reported the work being done at the school and it's progress. Roland Tetreault has finished the hallway where a leak was. Some boards on the front porch deck are being replaced and painted. Worth's Seamless Gutters have replaced all the gutter front and back.

Nadeau's will be contacted along with D&D to get some communication going between them along with NFI's Dan (the carpenter) so that they are all on Board with each other.

Larry will contact NFI about bids for snow removal and plowing.

Larry Labor brought back up a question that was tabled from the meeting of September 28, 2015 under other business on the Attorney compensation to Annette Smith who is a nonprofit SOle corporation and has helped tremendously on the Town's documents that were filed with the Public Service Board in opposition of Seymour Lake Solar, LLC. Etc

There were 2 (two) \$ 5,000.00 donations from property owners willing to help out with the Green Energy situation.

A motion was made and seconded to approve to pay Ms. Smith \$ 2,500.00 now and keep the rest for any help needed in case of wind towers coming to town and will send a letter stating that the money is a donation for services and to please acknowledge and return. (For our records)

A motion was made and seconded to adjourn the meeting at 7:00 p.m.

Chen, Zachary

From: Treadwell, John
Sent: Wednesday, January 06, 2016 7:47 PM
To: Chen, Zachary
Subject: Unauthorized Practice of Law

Categories: M-Files

Where are we with the ULP complaint I gave you?

John

John Treadwell
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
tel: 802-828-5512
fax: 802-828-2514
e-mail: john.treadwell@vermont.gov

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Chen, Zachary

From: Treadwell, John
Sent: Wednesday, January 06, 2016 7:48 PM
To: Chen, Zachary
Subject: FW: Redacted message re Annette Smith matter

Categories: M-Files

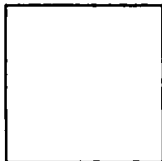
This goes with it

From: Redacted
Sent: Wednesday, January 06, 2016 5:36 PM
To: Griffin, Bill
Subject: Annette Smith/Unlawful Practice of Law

Hi Bill. In the most recent VtDigger, Ms. Smith wrote a comment that suggests recognition that she has been, in her own words, "practicing law without a license."

That comment follows; I will also forward you the link to the article:

"Annette Smith



23 hours 52 minutes ago

I help people and towns participate in the PSB process. At a certain point I usually apologize to them for the absurdity of it all. And I always have to tell them up front that no matter what they do, they will lose.

Unfortunately, the response to my efforts to provide assistance with the process has led to one developer in particular to pay attorneys, one who works for the Speaker of the House's firm, to file public records requests with towns and serve subpoenas or discovery on citizens I assist. http://vce.org/DB_VCE_AS_CorrespondenceRequests.pdf

Presumably the effort is to build a case against me that I am practicing law without a license. It has been effective in chilling participation, to some extent.

This new position being proposed at a cost of \$100,000 does not solve any problems. It's a steep learning curve to understand how to participate, but knowing how doesn't mean you're going to be heard. I'm developing a website to provide some basics <http://vtpsbparticipation.net/>, still need to finish adding the templates and samples."

Redacted

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confidential information intended only for the individual or entity named above. Any dissemination, use, distribution, copying or disclosure of this communication by any other person or entity is strictly prohibited. Should you receive this transmission in error, please notify the sender by telephone Redacted and return the original transmission to Redacted

Chen, Zachary

From: Chen, Zachary
Sent: Thursday, January 07, 2016 9:03 AM
To: Treadwell, John
Subject: RE Redacted message re Annette Smith matter

Categories: M-Files

Did he forward you the link to the article Annette Smith commented on?

-Zach

From: Treadwell, John
Sent: Wednesday, January 06, 2016 7:48 PM
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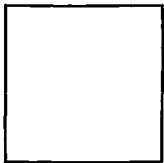
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Chen, Zachary

From: Treadwell, John
Sent: Thursday, January 07, 2016 9:04 AM
To: Chen, Zachary
Subject: RE: Redacted message re Annette Smith matter

Categories: M-Files

No. But you can probably find it on digger. It must relate to siting wind facilities.

From: Chen, Zachary
Sent: Thursday, January 07, 2016 9:03 AM
To: Treadwell, John <john.treadwell@vermont.gov>
Subject: RE: Redacted message re Annette Smith matter

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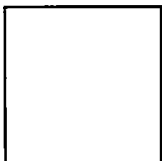
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Chen, Zachary

From: Chen, Zachary
Sent: Thursday, January 07, 2016 9:10 AM
To: Treadwell, John
Subject: RE: Redacted message re Annette Smith matter

Categories: M-Files

Got it: <http://vtdigger.org/2016/01/05/session-preview-2016-carbon-tax-renewable-siting-focus-of-legislative-energy-initiatives/>

I'll add it to the file.

From: Treadwell, John
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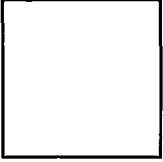
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23 hours 52 minutes ago

I help people and towns participate in the PSB process. At a certain point I usually apologize to them for the absurdity of it all. And I always have to tell them up front that no matter what they do, they will lose.

Unfortunately, the response to my efforts to provide assistance with the process has led to one developer in particular to pay attorneys, one who works for the Speaker of the House's firm, to file public records requests with towns and serve subpoenas or discovery on citizens I assist. http://vce.org/DB_VCE_AS_CorrespondenceRequests.pdf

Presumably the effort is to build a case against me that I am practicing law without a license. It has been effective in chilling participation, to some extent.

This new position being proposed at a cost of \$100,000 does not solve any problems. It's a steep learning curve to understand how to participate, but knowing how doesn't mean you're going to be heard. I'm developing a website to provide some basics <http://vtpsbparticipation.net/>, still need to finish adding the templates and samples."

Redacted

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Chen, Zachary

From: Chen, Zachary
Sent: Wednesday, January 13, 2016 3:06 PM
To: 'tmorganvt@comcast.net'
Subject: Approved minutes of select board meetings?

Categories: M-Files

The relevant dates are 9/28 and 10/26.

Thanks,

Zachary Chen
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
Tel: (802) 828-5512

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Chen, Zachary

From: Chen, Zachary
Sent: Wednesday, January 13, 2016 3:31 PM
To: Redacted
Subject: Public Records
Categories: M-Files

Dear Redacted

As I mentioned in a voicemail, just now, I was hoping you could assist me in identifying publicly available records related to the Town of Morgan's involvement in an application by Seymour Lake Solar, LLC to develop a solar facility. Please call me at your convenience.

Sincerely,

Zachary Chen
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
Tel: (802) 828-5512

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Chen, Zachary

From: tmorganvt@comcast.net
Sent: Thursday, January 14, 2016 9:45 AM
To: Chen, Zachary
Subject: Re: Approved minutes of select board meetings?
Attachments: 09-28-15-DA-M.docx; 10-26-15-DA-M.docx

Categories: M-Files

From: "Zachary Chen" <Zachary.Chen@vermont.gov>
To: tmorganvt@comcast.net
Sent: Wednesday, January 13, 2016 3:05:53 PM
Subject: Approved minutes of select board meetings?

The relevant dates are 9/28 and 10/26.

Thanks,

Zachary Chen
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
Tel: (802) 828-5512

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Selectmen's Draft Agenda/Minutes
September 28th, 2015
6:00 p.m.

Present: Chairman Larry Labor, Robert Guyer, Thomas Bonneville, and TammyLee Morin, Clerk to the Board.

Others Present: David Halquist from VEC, Chris Blais, Jim Mcwain, Joyce Wieselmann, Bruce Barter, William Bilowus, Molly Carey Bilowus, Bob Kern, Candy Moot, Chuck Nichols, Dave Hallquist, Beth Torpey, David Joyce, Peggy Barter, Carol Rehor, Dave Klein, Ed Rehore, Virginia Bergh.

1. Minutes to meeting of September 14, 2015 to review and approve as written.

A motion was made and seconded to approve the minutes as written.

2. To let any guest speak.

Dave Hallquist from VEC came to clarify some questions the Town had on Mr. Blittersdorf's Solar Project. He discussed VEC's interconnect issues with the project re: line upgrade to 3 phase, approximate cost of such etc. He also stated that the VEC preferred to site alternative energy projects closer to the net metered recipient re: Jay Peak. He also talked about the communications between the developer and Mr. William Stenger CEO of Jay Peak Inc. and VEC. He also gave a brief outline of the economic impact on the grid system when the utility is to receive alternative power.

3. Amend/correct minutes of July 13, 2015 as asked by auditor Susan Maginniss. #10 Accounts payable and Payroll amounts need to be reversed. AP was 5,191.56 and PR was 2,441.99.

A motion was made and seconded to approve the correction to the minutes of July 13, 2015.

4. Road sign on Toad Pond Road per request of Derby Elementary School's Principal, Tabled from last meeting of 09-14-15 #5.

Shawn Austin and Mr. Buchanan of Derby Elementary School will decide the best place to put the caution sign on Toad Pond road as requested by Mr. Buchanan.

5. Information from Kriston Mason Re: Solar Plants. (FYI)

Read & Reviewed found very interesting.

6. Town Highway Structures Program for the Board to review and Larry to sign from Shawn Austin.

A motion was made and seconded to approve and sign the Postponement of the Town Highways Structure Program until October of next year.

7. Bob Durgin requesting to get a new heater at the Transfer/Recycling Center?

A motion was made and seconded to approve to buy a new heater for the Transfer/Recycling Station.

8. Orders #150012 to review and sign.

A motion was made and seconded to approve and sign warrant #150012 in the amounts of

Payroll: \$ 7,544.88

Acct. Payable: \$ 8,077.02

Other Business:

Clerk TammyLee Morin requested the Meeting of October 12, 2015 be changed to Tuesday October 13, 2015 due to Columbus Day.

Discussion of changing the web master. Chuck Nichols was asked if he would like to and will reply by next meeting.

E-mail from Danika Frisbie on specific funding requests for the implementation of Universal Recycling, to assist in gaging overall funding needs, this was forwarded to Paul Tomasi 2 weeks ago.

Janet Selby asked where things stood with the school. Larry Labor said that there has been no response back from Turning Points at this time on the lease offer.

The Town has decided to intervene to the Public Service Board and will have the paper work in by 3:00 Wednesday October 30th 2015

There was conversation and concern on whether or not Mr. Blittersdorf has thoughts of putting up Wind Towers and by majority everyone thought that a committee should be formed and really dig into and make ourselves more educated on this kind of project and that the Town Plan should/needs to be changed and that things need to move and was suggested something done before Town meeting.

TammyLee will call the League to see if a vote with Australian ballot could be done.

A residential domestic animal issue – Joe Moeykins the Town Animal Control Officer has interviewed the complainant and that this is an on going complaint. Joe is still working on this problem.

Attorney compensation to Annette Smith who is a 501C3 corporation and is the executive director of Vermonters for Clean Environment. Ms. Smith helped tremendously on the Town's

document that was filed with the PSB (Public Service Board) in opposition to the Application of Seymour Lake Solar, LLC. **(Tabled until next meeting of October 13, 2015.)**

A motion was made and seconded to adjourn the meeting at 7:55 p.m.

**Selectmen's Draft Agenda/Meeting
October 13, 2015**

Present: Larry Labor, Chair; Thomas Bonneville, Robert Guyer and TammyLee Morin, clerk to the Board.

Penny Thomas will be attending the meeting.

- 1. Minutes to meeting of September 28, 2015 to review and approve as written.**

A motion was made and seconded to approve the minutes of September 28, 2015 as written.

- 2. To let any guest speak.**

N/A Penny Thomas did not show up.

- 3. Certificate of fact to change the grand list of 2015 VSA 324261 to review and sign.**

A motion was made and seconded to sign with changes.

- 4. A copy of the revised Lease agreement to NFI.**

Read and reviewed and Larry will contact Attorney Bill Davies.

- 5. Invitation to the NRRRA Annual Meeting and Luncheon November 18, 2015 at 12:00 noon in Concord NH at the cost of \$25.00 per person.**

Read and reviewed.

- 6. Lake Seymour Solar information to review and discuss.**

Larry Labor has written to Senator Rogers. Table until next meeting of October 26, 2015.

- 7. Orders #150014 to review, approve and sign.**

There were no Orders to be signed. Orders #150013 were reviewed, approved, and signed on October 8th 2015 by Larry Labor and Robert Guyer in the amounts of:

PR - \$6,067.30
AP- \$1,791.88

Other Business:

Vermont Division of Public Safety - FYI

Fire Safety Inspection Report – read & reviewed.

Septic System Tank riser installed and new cover in place – A new riser and cover were put in place. Worth's Seamless Gutters will do gutters on Friday October 16, 2015. Roland Tetreault will Pressure washing and painting will be done after the gutters.

Awaiting 2nd bid on heating system renovations. – Got Quote from Fred's and Nadeau's. A Special Meeting on October 15, 2015 will be held for the purpose of HVAC cost comparisons.

A motion was made and seconded to adjourn the meeting at 7:50 p.m.

Chen, Zachary

From: Chen, Zachary
Sent: Thursday, January 14, 2016 10:16 AM
To: 'tmorganvt@comcast.net'
Subject: RE: Approved minutes of select board meetings?

Categories: M-Files

Thank you! Would you also be able to provide the Oct 13 minutes?

From: tmorganvt@comcast.net [mailto:tmorganvt@comcast.net]
Sent: Thursday, January 14, 2016 9:45 AM
To: Chen, Zachary
Subject: Re: Approved minutes of select board meetings?

From: "Zachary Chen" <Zachary.Chen@vermont.gov>
To: tmorganvt@comcast.net
Sent: Wednesday, January 13, 2016 3:05:53 PM
Subject: Approved minutes of select board meetings?

The relevant dates are 9/28 and 10/26.

Thanks,

Zachary Chen
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
Tel: (802) 828-5512

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Chen, Zachary

From: tmorganvt@comcast.net
Sent: Thursday, January 14, 2016 11:04 AM
To: Chen, Zachary
Subject: Re: Approved minutes of select board meetings?
Attachments: 10-13-15-DA-M.docx

Categories: M-Files

From: "Zachary Chen" <Zachary.Chen@vermont.gov>
To: tmorganvt@comcast.net
Sent: Thursday, January 14, 2016 10:16:19 AM
Subject: RE: Approved minutes of select board meetings?

Thank you! Would you also be able to provide the Oct 13 minutes?

From: tmorganvt@comcast.net [mailto:tmorganvt@comcast.net]
Sent: Thursday, January 14, 2016 9:45 AM
To: Chen, Zachary
Subject: Re: Approved minutes of select board meetings?

From: "Zachary Chen" <Zachary.Chen@vermont.gov>
To: tmorganvt@comcast.net
Sent: Wednesday, January 13, 2016 3:05:53 PM
Subject: Approved minutes of select board meetings?

The relevant dates are 9/28 and 10/26.

Thanks,

Zachary Chen
Assistant Attorney General
Vermont Attorney General's Office
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communication. Also, please notify immediately via e-mail the sender that you have received the communication in error.

**Selectmen's Draft Agenda/Meeting
October 13, 2015**

Present: Larry Labor, Chair; Thomas Bonneville, Robert Guyer and TammyLee Morin, clerk to the Board.

Penny Thomas will be attending the meeting.

- 1. Minutes to meeting of September 28, 2015 to review and approve as written.**

A motion was made and seconded to approve the minutes of September 28, 2015 as written.

- 2. To let any guest speak.**

N/A Penny Thomas did not show up.

- 3. Certificate of fact to change the grand list of 2015 VSA 324261 to review and sign.**

A motion was made and seconded to sign with changes.

- 4. A copy of the revised Lease agreement to NFI.**

Read and reviewed and Larry will contact Attorney Bill Davies.

- 5. Invitation to the NRRRA Annual Meeting and Luncheon November 18, 2015 at 12:00 noon in Concord NH at the cost of \$25.00 per person.**

Read and reviewed.

- 6. Lake Seymour Solar information to review and discuss.**

Larry Labor has written to Senator Rogers. Table until next meeting of October 26, 2015.

- 7. Orders #150014 to review, approve and sign.**

There were no Orders to be signed. Orders #150013 were reviewed, approved, and signed on October 8th 2015 by Larry Labor and Robert Guyer in the amounts of:

PR - \$6,067.30

AP- \$1,791.88

Other Business:

Vermont Division of Public Safety - FYI

Fire Safety Inspection Report – read & reviewed.

Septic System Tank riser installed and new cover in place – A new riser and cover were put in place. Worth's Seamless Gutters will do gutters on Friday October 16, 2015. Roland Tetreault will Pressure washing and painting will be done after the gutters.

Awaiting 2nd bid on heating system renovations. – Got Quote from Fred's and Nadeau's. A Special Meeting on October 15, 2015 will be held for the purpose of HVAC cost comparisons.

A motion was made and seconded to adjourn the meeting at 7:50 p.m.

Chen, Zachary

From: Chen, Zachary
Sent: Wednesday, January 20, 2016 1:28 PM
To: Redacted
Subject: My email

Categories: M-Files

Zachary Chen
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
Tel: (802) 828-5512

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Chen, Zachary

From: Redacted
Sent: Wednesday, January 20, 2016 1:31 PM
To: Chen, Zachary
Subject: Re: My email

Categories: M-Files

Thanks!

On 1/20/2016 1:28 PM, Chen, Zachary wrote:

- > Zachary Chen
- >
- > Assistant Attorney General
- >
- > Vermont Attorney General's Office
- >
- > 109 State Street
- >
- > Montpelier, VT 05609
- >
- > Tel: (802) 828-5512
- >
- > PRIVILEGED & CONFIDENTIAL COMMUNICATION: This E-mail may contain
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- > immediately at (802)
- > 828-5512 and ask to speak to the sender of the communication. Also,
- > please notify immediately via e-mail the sender that you have received
- > the communication in error.
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Chen, Zachary

From: Redacted
Sent: Wednesday, January 20, 2016 1:33 PM
To: Chen, Zachary
Subject: Fwd: FW: VCE Solar Update 9/20/15 - Vermont Solar Siting Task Force Video
Attachments: OffshoreWind-AP-600x350.jpg; ATT00002.htm; 20110728_solarFarm-610x343.jpg; ATT00004.htm; NGLunderville.jpg; ATT00005.htm; Morgan Solar 9-10-15.jpeg; ATT00007.htm; Morgan solar copy.jpeg; ATT00009.htm; image001.png; ATT00011.htm; image001.png; ATT00013.htm; image002.png; ATT00015.htm; image003.png; ATT00017.htm; PastedGraphic-1.pdf; ATT00018.htm; PastedGraphic-2.pdf; ATT00019.htm

Categories: M-Files

Some of the e-mails are like these, and seem to be to a mailing list that Reda found himself on. The ones that are to the mailing list (vce@vce.org) seem to be similar to these. These are the ones that will clutter up your mailbox quickly, so if you don't need these ones, just let me know.

Thanks,
Red
acte

----- Forwarded Message -----

Subject: FW: VCE Solar Update 9/20/15 - Vermont Solar Siting Task Force Video
Date: Tue, 3 Nov 2015 10:38:07 -0500
From: Redacted
To: Redacted

From: vce@vce.org
Date: Sun, 20 Sep 2015 23:01:26 -0400
Subject: VCE Solar Update 9/20/15 - Vermont Solar Siting Task Force Video
To: vce@vce.org

Lots of solar news since the last update 914. Be sure to read this one (text below) "Report: Green energy drives jobs" which has the latest from Gov. Shumlin about the role of towns, and the PSB process.

Two Charlotte PSB solar items this week.

One is a site visit on Tuesday at 1:30 p.m. at the constructed large project on Hinesburg Road.

On Thursday there is a prehearing conference on a 500 kW solar array proposed for Charlotte at 9:30

<http://psb.vermont.gov/sites/psb/files/orders/2015/2015-09/NMP%206314%20Order%20Opening%20Investigation.pdf>

CPG #NMP-6314 Prehearing Conference

In Re: Application of Vermont AllSun Solar XII, LLC for a certificate of public good for an interconnected 500 kW group net-metered photovoltaic electric power system in Charlotte, Vermont
Before Thomas Knauer, Hearing Officer
Location: Public Service Board Hearing Room, Third Floor, People's United Bank Building, 112 State Street, Montpelier, Vermont
Event Date and Time:
Thursday, September 24, 2015: 9:30 am

Public hearing on a 2.2 MW solar array in Richmond at 7 pm. Presumably there is also a site visit earlier in the day, ask psb.clerk@vermont.gov <<mailto:psb.clerk@vermont.gov>>.

#8564 Public Hearing

In Re: Petition of GMPSolar - Richmond, LLC, for a certificate of public good, pursuant to 30 V.S.A. § 248, authorizing the installation and operation of a 2.0 MW solar electric generation facility off of Governor Peck Highway in Richmond, Vermont, to be known as the "GMPSolar Richmond Project" --- (Order of Notice

<<http://psb.vermont.gov/sites/psb/files/document/8564%20Order%20of%20Notice%20Public%20Hearing.pdf>>

Section 248 Project Information --- Petition, Prefiled Testimony & Exhibits

<<http://psb.vermont.gov/8564PetitionPrefiledTestimonyAndExhibits>>

Before Lynn Fabrizio, Esq., Hearing Officer
Location: Second Floor Conference Room at the Richmond Town Center, 203 Bridge Street, Richmond, Vermont
Event Date and Time:
Thursday, September 24, 2015: 7:00 pm

VIDEO of Solar Siting Task Force Meeting #2

https://youtu.be/9_r5ul0Wxks

<http://solartaskforce.vermont.gov/announcements-meetings>

Meeting #2

September 17, 2015

10 a.m. to 12 p.m., Giga Conference Room, 3rd Floor, VT Public Service Dept., 112 State St., Montpelier

Press Release

Chen, Zachary

From: Redacted
Sent: Thursday, January 21, 2016 10:09 AM
To: Chen, Zachary
Cc: Redacted
Subject: Morgan

Categories: M-Files

Hi Zachary,

I wanted to touch base with you regarding the documents from the Town of Morgan. The e-mails that I have from Annette Smith are not public records as they pertain to ongoing litigation. If any of the e-mails were obtained by the opposing party, it could put the Town of Morgan at a substantial disadvantage before the Public Service Board. As such, if there is any possibility of documents I provide to you being disclosed to others, I am not in a position to provide you with any e-mails at this time.

Can you please let me know whether the documents would become discoverable or be disclosed to anyone else?

Thanks,
Red
acte

Redacted

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Chen, Zachary

From: Chen, Zachary
Sent: Thursday, January 21, 2016 3:38 PM
To: Redacted
Subject: RE: Morgan

Categories: M-Files

Hi Red
acte

Thanks for touching base. I understand your position. I can't say where things are headed at present, so let's table the matter for now.

Thanks again for all of your help.

-Zach

-----Original Message-----

From: Redacted
Sent: Thursday, January 21, 2016 10:09 AM
To: Chen, Zachary
Cc: Redacted
Subject: Morgan

Hi Zachary,

I wanted to touch base with you regarding the documents from the Town of Morgan. The e-mails that I have from Annette Smith are not public records as they pertain to ongoing litigation. If any of the e-mails were obtained by the opposing party, it could put the Town of Morgan at a substantial disadvantage before the Public Service Board. As such, if there is any possibility of documents I provide to you being disclosed to others, I am not in a position to provide you with any e-mails at this time.

Can you please let me know whether the documents would become discoverable or be disclosed to anyone else?

Thanks,
Red
acte

Redacted

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<http://solartaskforce.vermont.gov/sites/solarsiting/files/documents/press_releases/SSTF%20Media%20Release%20091515.pdf>

Agenda

<http://solartaskforce.vermont.gov/sites/solarsiting/files/documents/meeting_agendas/2015-09-17%20Agenda%20SolarTaskForce.pdf>

Draft Guidelines for Siting Solar Energy Projects in Vermont from David Raphael of LandWorks

<http://solartaskforce.vermont.gov/sites/solarsiting/files/documents/meeting_materials/Solar%20Siting%20Guidelines.pdf>

State Goals and Analysis of Future Solar Development

<http://solartaskforce.vermont.gov/sites/solarsiting/files/documents/meeting_materials/ASH%20for%20solar%20siting%20TF%2020150917.pdf>

by

Dr. Asa Hopkins of DPS and BCRC Solar Potential Map

<http://solartaskforce.vermont.gov/sites/solarsiting/files/documents/meeting_materials/BCRC_Solar_Within1Mile%20-%20Compressed.pdf>

Elizabeth went to the site visit and public hearing. There was no public at the site visit, it appears to be a good site. There were a few members of the public at the public hearing but nobody signed up to speak. There is a 5 minute video, where chairman Volz opened and closed the hearing. It is the first solar project I am aware of where the full PSB ran the hearing.

#8562 Intervention Deadline

In Re: Petition of GMPSolar - Williston, LLC for a certificate of public good, pursuant to 30 V.S.A. §§ 219a, 229, and 248, authorizing the installation and operation of a 4.69 MW net-metered solar electric generation facility near Mountain View Road in Williston, Vermont, to be known as the "GMPSolar Williston Project"

Intervention Deadline

Event Date and Time:

Wednesday, September 23, 2015: 7:45 am - 4:30 pm

The first public showing of one of these energy planning maps was at the solar siting task force on Thursday morning (see Asa's presentation above) and then in Manchester on Thursday evening. We learned that the solar maps do not exclude forested areas, so it is a constructive comment to suggest they add that layer. And it would be good to ask what percentage of the load Chittenden County must do, and how they are expected to meet that load, and see what the answer is. I hope some of you can go to these upcoming energy planning forums and weigh in. None of their maps include structures, there is no consideration for the human factor.

<http://www.vnews.com/home/18661780-95/sunday-forum-help-draft-a-regional-energy-plan>

Sunday, September 20, 2015

Help Draft a Regional Energy Plan

To the Editor:

As recent headlines in the Valley News will attest, the siting of renewable energy projects is an important issue in the Upper Valley. The Two Rivers-Ottawaquechee Regional Commission (TRORC) has been working with the Vermont Public Service Department and the Vermont Energy Investment Corp. on a new regional energy planning initiative.

The goal of the regional energy plan is to advance the state's energy and climate goals while being consistent with local and regional needs and concerns, and to provide specificity to enable progress to be made in the region toward those goals.

To help develop the regional energy plan, TRORC will organize a series of public forums seeking input from municipalities and other stakeholders. The first public forums will focus on a discussion of potential renewable-energy-generation site mapping.

Follow-up public meetings will help identify specific education and outreach efforts; the most effective implementation programs and activities; and local policies that can be implemented to help reach regional energy goals.

The first regional energy plan public meetings, focusing on renewable energy siting, are scheduled for Tuesday, Sept. 22, from 6 to 8 p.m. at the Bethel Town Hall, 318 Main St., Bethel; and Monday, Sept. 28, at the Bradford Academy, 172 North Main St., Bradford. You are invited to help shape energy planning in the 30-town TRORC region. For more information, please contact me at dgish@trorc.org <<mailto:dgish@trorc.org>>.

Dee Gish

Finance manager

Two Rivers-Ottawaquechee Regional Commission

<http://www.rutlandherald.com/article/20150920/OPINION06/709209943>

Opinion

<<http://www.rutlandherald.com/apps/pbcs.dll/section?Category=OPINION>>

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In energy rush, farmland needs protection

By Roger Allbee

Commentary | September 20, 2015

Vermont's environmental heritage has been defined over time, and today is being tested or challenged by goals to have the state have 90 percent of its energy from renewable sources by 2050. A special recent report on VTDigger.org <<http://VTDigger.org>>, "Tax breaks drive Vermont's solar

gold rush," indicates that solar developers have their eyes on Vermont due to these additional tax breaks or incentives. Can this expansion of solar, and even wind on our ridgelines, be compatible with articulated environmental and land use goals of the past?

It is reasonable or necessary to step back and better define how these energy goals can be compatible with existing and past policies pertaining to the environment and land use. A brief review of history is in order.

In 1847, Vermont Congressman Perkins Marsh gave a speech to the Rutland Agricultural Society on agricultural conditions in New England and the need for better resource management and active efforts for restoring the land. The early settlers to Vermont had stripped the forests leading to severe erosion and loss of soils and water degradation. Marsh's ideas were said to be radical at the time but in the end led, many argue, to the establishment of the conservation movement in the United States.

Since then there have been numerous efforts to better define our state's commitment to the wise use of our land and water resources. In 1927, the Vermont Commission of Country Life looked at and studied every facet of Vermont life. One of the recommendations was that the state take over, as rapidly as possible, the summits of the principal mountains for park and forestry purposes. Also, it was stated that in the larger development of recreational resources, which may be expected, "care should be taken to avoid features that disfigure the landscape and are an offense to good taste." Recreation or tourism was then seen as the most promising opportunity for business growth into the future.

The 1960s growth of ski areas and connected recreational housing came into conflict with some of the articulated goals of the 1927 report relative to activities that disfigure the environment. In 1969, Republican Gov. Deane Davis appointed Arthur Gibb of Weybridge to chair the Governor's Commission on Environmental Control. Many public hearings were held, and the commission's work resulted in the passage of Act 250, Vermont's pioneering land use law. This law has procedures in place to protect our state's most productive soils.

Over time and since the passage of this pioneering land use law, various studies and programs have been created to address Vermont's commitment to its wise use of land and water resources. In the late 1970s Gov. Richard Snelling and the Vermont Legislature passed the current use tax program as a way to better preserve farm and forest land in the state. In 1986, "a coalition of affordable housing, conservation and historic preservation advocates concerned with the rapid change in the character of the Vermont landscape approached the state legislature with a plan to form a unique quasi-state agency. The Vermont Housing and Conservation Board was established by the Legislature in 1987, with the "dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont's agricultural land, forestland, historic properties, important natural areas, and recreational lands that are of primary importance to the economic vitality and quality of life in the state." More recently, the 2012 legislative session brought with it a renewed

commitment to Vermonters' values (over 97 percent of Vermonters value the working landscape, according to studies), by passing the Working Landscape Initiative.

Today our land use policies relative to renewable energy siting of solar and wind are in conflict, as the Public Service Board arguably does not take into consideration issues specifically related to land use, as does the Act 250 process, which is time tested. Our prime and productive farmland is in very limited supply in Vermont. We are seeing a renaissance of agriculture in our state, with many new farms and products from the land. Yes, Vermont's open space and productive agricultural land are a prized asset that defines our state and its people, just as it has over many decades. A rational policy approach is needed that includes Act 250, as power siting today is much different than in the past when it dealt with fixed generation facilities like hydro, coal and wood-burning generation, and nuclear power. It is time for the Legislature and policy leaders to rectify this imbalance.

/Roger Allbee is a former Vermont secretary of agriculture and chairman of Working Lands Coalition of the Vermont Council on Rural Development, which led to the creation of the Working Lands Program. He was a contributing author to the book "The Vermont Difference, Perspectives from the Green Mountain State" by the Vermont Historical Society and the Woodstock Foundation. /

<http://www.vermontbiz.com/news/september/governor-shumlin-model-getting-energy-right>

Governor Shumlin: A model for getting energy right

Sun, 09/20/2015 - 4:19am --

by Governor Peter Shumlin It is all too easy for those of us who care about protecting our environment, combating climate change, and preserving a sustainable planet for our kids and grandkids to lose hope that we can win the fight. At the national level, powerful fossil fuel interests and their climate-denier allies in Congress prevent meaningful action and work to preserve the status quo. Here in Vermont, however, we are showing that progress can be made and that there is a model for energy that is good for our economy and our environment.

This week I joined with energy efficiency and clean energy businesses to release a new report on the state of clean energy in Vermont. The good news: We have over 16,200 clean energy jobs in Vermont, up about 1,000 jobs from last year, and employers expect to add another 1,000 jobs in the next six months. This fast-growing sector of our economy is one reason that Vermont has the third lowest unemployment rate in America.

Our steady focus on energy efficiency also continues to pay dividends. Investments over the last 15 years to retrofit our homes and businesses have reduced the amount of electricity we were projected to use by 13 percent. That has led to a reduction in our annual electric costs of more than \$50 million. And this doesn't take into account the tens of millions of dollars we have saved by deferring costly transmission projects and reducing our share of regional transmission costs.

We have made extraordinary progress on solar, cutting the price of solar power by more than 60 percent since 2010. As the solar industry has matured, we have prudently trimmed incentives and grant programs. Even still, we have increased the amount of solar energy in Vermont by more than ten times since I became Governor.

Vermont has also been able to avoid the electric rate shocks that are happening in many of our neighboring states, thanks in large part to our dedication to long-term, stably priced contracts for renewable energy.

When we purchase local hydro, or power from Hydro-Quebec, or lock in a good deal for solar or wind energy we do not just reduce carbon emissions. We also reduce our exposure to volatile energy markets and help protect ratepayers.

Electric ratepayers in our neighboring states have routinely seen double-digit rate increases in the past several years, and this year the price for wholesale electricity in New England is the most expensive in the nation. Vermont bucks that trend. Our largest utility, Green Mountain Power, has reduced electric rates three of the past four years. Year-over-Year data comparing 2015 to 2014 shows Vermont's electric rates for residential, commercial, and industrial customers have all come down, while every other state in our region experienced rate increases. Our electric rates are now second lowest overall in our six state region. Those who say we are not competitive with our neighbors should keep these facts in mind.

It is not just that our utilities are helping keep rates stable for customers. They are also partners in helping develop a new model for energy. Legislation I signed in June creates new opportunities for utilities to provide on-bill financing for customers to invest in energy saving upgrades for our homes and businesses. The new model for energy is this: instead of paying for more power generated out there somewhere, we are going to help Vermonters weatherize their homes, install solar on the roof, and cold-climate heat pumps to reduce their oil and propane use. From Montpelier to Rutland, I have visited homes where this is being done. Oil bills are down 60 to 80 percent, homes are more comfortable, and overall energy costs are more affordable. Bill McKibben recently wrote an article in the New Yorker stating that our program shows "innovative, energy-saving and energy-producing technology is now cheap enough for everyday use."

With all of our progress, I remember back to when many of us were fighting to close Vermont Yankee and invest instead in a renewable energy future. Back then the gloom and doom crowd was saying closing the plant would raise our electric rates, thereby hurting our economy. Turns out they were wrong. Our largest utility has lowered electric rates in three of the past four years even though they stopped purchasing power from Yankee in 2012 and our state's economy is strong. In Vermont we have a new model for energy that is working for our economy and our environment. We know we have more to do, but as we look at a Congress that is paralyzed, and at dinosaur utilities in some parts of the country that can't innovate, we should be proud of the work we have accomplished together in Vermont.

Vermont's Solar Surge Energizes Debate | Vermont Public Radio
September 19, 2015
<http://digital.vpr.net/post/vermonts-solar-surge-energizes-debate>

By RANDALL BALMER <<http://digital.vpr.net/people/randall-balmer>> /•/
<http://digital.vpr.net/post/balmer-solar-siting>

<http://watchdog.org/238316/green-mogul-blasts-nimby-concerns/>

Green mogul opposed wind farm off Martha's Vineyard, blasts objectors in Vermont

By Bruce Parker <<http://watchdog.org/author/bparker/>> / September 16, 2015 / 13 Comments
<http://watchdog.org/238316/green-mogul-blasts-nimby-concerns/#disqus_thread>

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AP file photo

NIMBY: Thomas Melone, CEO of New York-based Allco Renewable Energy, opposed Cape Wind over concerns it would hurt the view from his home in Martha's Vineyard. Melone's company has been critical of so-called NIMBY concerns in Vermont.

A green energy mogul who protested an offshore wind farm near his summer home on Martha's Vineyard is criticizing Vermonters who oppose his company's four-megawatt combined solar farm proposed in Bennington.

In 2010, Thomas Melone, CEO of Allco Renewable Energy, petitioned to block Cape Wind, a large offshore wind farm sited in federal waters in Nantucket Sound.

In an appeal to the Massachusetts Department of Public Utilities, Melone protested the proposed construction of 130 ocean wind turbines on the basis the renewable energy project would affect his viewscapes and hurt the value of his \$15 million beachfront property in Edgartown, Massachusetts.

While the Massachusetts Supreme Judicial Court rejected his "Not in my back yard"-based complaints in May 2012 <<http://archive.capenews.net/communities/region/news/1842>>, Melone and Allco have issued scathing criticisms toward Vermonters who say Allco's Chelsea Solar farm planned for Bennington's Apple Hill area will greatly disrupt noise, wind and visual aesthetics for local residents and visitors to the nearby welcome center.

Libby Harris, an intervenor and resident of Apple Hill, has urged the Vermont Public Service Board to deny Allco a certificate of public good <http://watchdog.wpengine.netdna-cdn.com/wp-content/blogs.dir/1/files/2015/09/8454_Harris_Brief_091015.pdf> on the basis that clear-cutting acres of forest for the solar project

will boost highway noise and destroy the natural wind buffer that protects homes in the area.

Harris also claims removing the forest will disrupt wildlife and remove trees that absorb CO₂, in addition to harming the visual beauty of the area.

*RELATED: Vermont woman challenges NYC investor in effort to block Bennington solar farm
<<http://watchdog.org/237764/libby-harris-challenges-solar-farm/>>*

Despite Melone's efforts to keep renewable energy away from his home in Martha's Vineyard, Allco appears to have little sympathy for Harris' objections.

In an Aug. 6 post-hearing brief
<<http://watchdog.wpengine.netdna-cdn.com/wp-content/blogs.dir/1/files/2015/09/post-hearing-brief-FINAL-with-cert.pdf>>
filed
with the Vermont Public Service Board, Allco's Michael Melone, son of Thomas Melone, wrote that impending climate change disaster supersedes the concerns of intervenors in Vermont.

"The Chelsea Project will advance the goals of fighting the devastating (sic) impacts from climate change. Whatever the unsubstantiated and private concerns of Libby Harris may be, they pale in comparison to the benefits provided by the Project, and the urgent need for action on climate change," the brief states.

To stress the urgency of an impending climate disaster, Michael Melone writes, "President Barack Obama has rightly called climate change the greatest threat to national security," and he adds that researchers claim "the effects of climate change, pollution and deforestation have caused the Earth to enter the beginning of a new extinction phase where humans could be among the first casualties."

In an Aug. 12 petitioner's reply brief
<<http://watchdog.wpengine.netdna-cdn.com/wp-content/blogs.dir/1/files/2015/09/Petitioners-Reply-Brief-FINAL-with-Cert-of-Service.pdf>>,

Michael Melone disparages Harris as a "lone wolf" objector and dismisses her worries as "NIMBY concerns."

According to Harris, such dismissive statements are characteristic of the way Allco deals with residents concerned by the firm's solar farms.

"The solar company bought the land directly across from my house. From the beginning they have used so much subterfuge to be seemingly fine with what they're doing, and yet every step of the way they have used their power and deep pockets to bully us," Harris told Vermont Watchdog.

A retired school teacher, Harris claims she became an intervenor because it's the only affordable way local residents can voice their objections.

"I decided to become an intervenor because I'm an abutter (to the site). This has become my personal mission to do what I can because I don't have all that money to go to Superior Court," she said.

While Harris said intervening at the PSB is more affordable than paying the more than \$10,000 she would need to fight Allco in court, she claims the company has treated her poorly for her role as intervenor.

"They told me in a conference call that since they owned the land directly across from me, if I didn't withdraw my intervenor status they would remove every single one of the six acres of apple trees on that land that I look out on."

Michael Melone did not return Watchdog's request for comment.

"None of us are against going to renewables," Harris said. "But I think the Public Service Board, being three appointed people, has been rubber stamping these wind and solar projects all over the state. It's already done a great deal of harm in ruining the natural habitat."

/Contact Bruce Parker at bparker@watchdog.org/

<http://www.newsandcitizen.com/news-and-citizen/lamoille-news/solarfacilityplannedformorrisville>

Solar Facility Planned for Morrisville

posted Sep 18, 2015, 5:51 AM by Staff News & Citizen

*by Andrew Martin *

Morristown could soon be the home of a new solar facility. David Blittersdorf, the CEO of AllEarth Renewables, has filed an application with the Vermont Public Service Board for a Certificate of Public Good that if approved would allow him to construct a 150 kW solar facility on Walton Road in Morristown.

The project that Blittersdorf has planned in Morristown is known as Walker Hill Solar and it would be constructed on land owned by Leo and Bonita Lefevre.

"The landowner contacted us interested in participating in solar net metering and augmenting his income," AllEarth Renewable Chief Strategy Officer Andrew Savage explained on why the site was chosen, "The site is an open, mowed field with good southern exposure."

Plans for the project call for a 150 kW AC group net-metered solar generation facility to be installed on a two-acre section of a larger 43-acre lot located at the address 1806-2182 Walton Road. The facility will consist of 30 AllEarth Renewable solar trackers as well as underground electrical connections and an equipment panel. The facility will tie back in with the local electrical grid via a utility pole

located on Walton Road. According to Savage the facility is not being constructed to allow for any future expansion or additional trackers.

As part of the agreement to build the facility on privately owned land AllEarth Renewables will have a land lease agreement with the Lefevres for the two-acre portion of the parcel where the solar trackers will be located.

Moving forward the project will be reviewed and considered by the Vermont Public Service Board following the completion of the 30-day public comment period. That period is quickly drawing to a close, and once it has the board will decide whether or not to issue a Certificate of Public Good for the project or not. If the project application is approved by the board then construction will begin soon after according to Savage.

“We will plan to commence construction as soon as the permitting process concludes, and the project is allowed to proceed,” Savage explained. He added that the actual installation of the trackers should proceed quickly and take no more than two weeks. Plans call for the facility to actually begin producing power in 2016.

<http://www.newsandcitizen.com/news-and-citizen/lamoille-news/hydeparksolarreceivesfunding>

Hyde Park Solar Receives Funding

posted Sep 18, 2015, 5:52 AM by Staff News & Citizen
*by Andrew Martin *

The project to build a municipal solar facility in Hyde Park has received a big boost. The Vermont Economic Development Authority recently reserved \$3.5 million in Clean Energy Renewable Bonds (CREBs) for the Hyde Park project, known as Hyde Park Solar, Waterhouse Project, which would see a solar facility built in the town. Voters approved the application for the zero-interest CREBs by a four to one margin earlier this spring, and municipal and town officials will now go about completing the process necessary to secure the \$3.5 million in zero-interest bonds that has been set aside for the project.

According to Carol Robertson, the General Manager for the Village of Hyde Park, her utility now has less than 170 days to finalize the process that will secure the CREBs for their project. She also explained that local officials expect that the solar project will cost roughly \$3 million but that the utility applied for the \$3.5 million figure, because they expected to receive only a portion of the funds they applied for.

Hyde Park Solar, Waterhouse Project is planned to be a 1 megawatt solar energy generating facility that will be interconnected with the Hyde Park Electric system. According to Robertson the facility will likely be located at 1124 Silver Ridge Road in Hyde Park, a lot just behind the House of Troy. The Village of Hyde Park has a lease option on

that site on behalf of Hyde Park Electric.

"This site was analyzed along with multiple properties that met critical solar site standards and could tie with the Hyde Park Electric system," Robertson stated in an email interview with the News & Citizen, "It ranked #1 by the project manager, Encore Redevelopment, so we included it with our CREBs application."

"Provided that it meets all necessary approvals and receives required permits, the Village will lease this property," she continued. The CREBs that have been set aside for the project are payable from the net revenues that are derived from the operations of the Hyde Park Electric Department. The zero-interest CREBs will be paid back using those net revenues over a period of 30 years if the project is completed.

The goal of creating the municipal solar facility will be to protect Hyde Park from market volatility via the long-term stably priced renewable power resource the utility will control. The facility will also eliminate the need to pay transmission costs for the power generated there while also helping to meet the renewable resource portfolio requirements that all utilities in Vermont will soon have to meet.

Moving forward, Robertson explained that the project is now in Phase 2. As part of that phase a public information hearing will be held sometime in October. Along with town and village officials in attendance representatives from Encore Redevelopment will also be present to answer any technical questions about the solar facility.

"We held a similar meeting on April 21 and the room was full," Robertson explained, "Then, on May 6, Village voters approved the CREBs to pay for the project...There is a lot of interest in local, community-owned solar and we expect a crowd again..."

"We hope to see all of Hyde Park and friends of Hyde Park at the meeting," she added.

Along with the special informational meeting in October a Special Village Meeting and Australian Ballot vote will also be taking place sometime in the near future, likely December, in order to give final approval to the project as it moves forward. Robertson believes that the project will already have approval by the Public Service Board at that time.

"Once we receive more information from the PSB and our project developer, Encore Redevelopment, these meetings and the final vote will be warned," Robertson explained with regards to both upcoming meetings and the vote. She added that during the Special Village Meeting the Australian Ballot item will be voted on only by eligible voters from the Village of Hyde Park. Only Hyde Park Village voters will be allowed to vote since it is the village that owns and operates Hyde Park Electric.

There will be an opportunity to cast absentee ballots and details will be published with the warning," Robertson continued, "It is important to remember that the CREBs vote depends entirely on the regulatory and voter approvals no later than February 2, 2016."

Robertson added that if for some reason Hyde Park does not complete all the necessary requirements to receive the CREBs set aside for the Hyde Park Solar project than other funding sources will be pursued.

"With the approval of our CREBs application, we are moving quickly to meet their deadlines in order to secure the bonds," Robertson stated,

“With bond approval, financial and site analysis complete, we now enter Phase 2, which will involve project design and permitting.”

Robertson went on to add that Phase 3 of the project will be construction, which will begin next year with requests for proposals for the construction materials, labor, and service components.

“This project began in 2014 when Village voters unanimously approved Article #13, which gave us the authority to begin a Community Resiliency Program,” Robertson added, “Hyde Park Solar, Waterhouse Project will be the first accomplishment....Hyde Park should be congratulated for being both progressive and practical.”

<http://vtdigger.org/2015/09/18/robert-holland-vermont-renewable-energy-program-increases-states-carbon-footprint/>

ROBERT HOLLAND: VERMONT RENEWABLE ENERGY PROGRAM INCREASES STATE'S CARBON FOOTPRINT

COMMENTARY <<http://vtdigger.org/author/opinion/>> SEP. 18 2015, 7:00 PM

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/Editor's note: This commentary is by Dr. Robert R. Holland, of Irasburg. He is one of the protesters known as the Lowell Six who were arrested and convicted of trespassing at the Lowell Mountain wind site in 2011./

In 2005 the Vermont Legislature passed renewable energy legislation establishing the SPEED program. SPEED was repealed in 2015 with legislation initially called RESET. The name RESET has been dropped as leaders thought that the name implied that SPEED had been a mistake that required correcting. SPEED was a mistake and Vermont will be living with its legacy for at least 20 years.

While other states established renewable energy programs that decreased their carbon footprints, SPEED increased Vermont's — by about 236,000 metric tons of CO₂ per year. A similar annual burden will continue until SPEED projects like the Lowell, Sheffield and Georgia wind projects are decommissioned.

Since such a profound mistake was made and nobody has apologized to Vermonters, it seems prudent to perform an "autopsy" to see how Vermonters were tricked into believing that a renewable energy program would decrease their carbon footprint.

There are two basic concepts of electrical engineering that our governor, legislators, secretaries, Public Service Board and Public Service Department seemingly did not understand that set SPEED up to fail from its inception.

How do you count renewable energy? Renewable energy is not counted by measuring the output of your wind and solar projects. Renewable energy is measured by counting the renewable energy certificates that an entity owns. Due to the complexity of the electrical grid, it is difficult to associate electrical power with its precise source and its associated emissions. To simplify this complexity utilities agreed to separate electricity from its emissions. A renewable energy project generates both electricity and renewable energy certificates (RECs). A business generating renewable energy can sell both. A REC is valued at \$55-\$60 per MWh. A typical wholesale price for non-renewable energy in New England is \$32 per MWh. According to Federal Trade Commission guidelines, only the owner of RECs can claim its energy as renewable, no matter how the energy was generated. If both the seller and buyer of a REC make a renewable energy claim it's called "double" counting and is at least unethical, and arguably criminal.

How do you attribute carbon emissions? If an entity holds a REC for each MWh sold, the entity has zero emissions. For those MWh sold without a REC, the entity assumes responsibility for a proportionate share of total emissions for the regional grid. A renewable generator who sells its RECs effectively assumes the emissions of the buyer.

With a command of these two concepts anyone could have predicted in 2005 that SPEED would increase Vermont's carbon footprint as all the RECs generated by SPEED projects are sold to out-of-state utilities to satisfy their state's renewable energy requirements. With the sale of the RECs Vermont forfeits the right to call the energy renewable and all SPEED-generated energy assumes the average regional emission rate,

increasing Vermont's carbon footprint.

Consider the following exchange between Public Service Board Chair James Volz and a witness for Green Mountain Power regarding the word "renewable" in testimony before the PSB on Feb. 4, 2011, page 187. The initial topic of the testimony is a report that the PSB is required to write in 2017 on the achievements of the SPEED program.

GMP: ... the rub will come when Vermont assesses how we do on achieving SPEED goals. And a report or similar document is issued that describes what renewable sources does Vermont have. That would be a moment at which this concern (double counting) might arise.

CHAIRMAN VOLZ: So if we didn't ever do that report, and just make that assessment, then we could avoid that problem perhaps. That may be a legal question, I don't know.

GMP: I had not thought about it that way, sir.

CHAIRMAN VOLZ: We could encourage all the renewables we want, put in place programs to encourage renewables, allow the RECs to be sold, but as long as we don't make a claim somewhere publicly that we have a certain amount of renewables then, or that we have met a specific goal, then we might be able to avoid the problem.

GMP: I think that's fair, and you understand the dynamic. ... But I think you have it right.

CHAIRMAN VOLZ: Okay. Thank you.

Now consider how Green Mountain Power and the Vermont Electric Cooperative "sold" the Lowell Wind project to Vermonters.

At the same time that SPEED projects were being constructed Hydro-Quebec had excess hydro power equivalent to 10 times the output of GMP's Lowell project until 2023 that is currently being sold for 3.5 cents per kwh with no addition to the buyers' carbon footprint.

"Kingdom Community Wind means clean renewable energy built in Vermont for Vermonters."

"We have always believed that this wind resource would provide a clean, cost-effective energy resource for Vermonters, and this upgrade is helping us achieve that goal."

"This project [KCW] is an important part of Green Mountain Power's strategy to provide its customers with long-term, stably priced renewable energy."

In none of these conversations do the Public Service Board, Green Mountain Power, nor Vermont Electric Cooperative demonstrate an understanding of the FTC standard for the use of "renewable energy."

Vermont's new renewable energy legislation also does not define renewable energy consistent with FTC guidelines. None of the parties demonstrate an ability to clearly communicate to Vermont's citizens.

Vermont utilities currently receive about \$50 million annually from the sale of RECs, this represents about 6 percent of the cost of electricity. At the same time that SPEED projects were being constructed Hydro-Quebec had excess hydro power equivalent to 10 times the output of GMP's Lowell project until 2023 that is currently being sold for 3.5 cents per kwh with no addition to the buyers' carbon footprint. As a citizen I wonder who made the decision not to buy this cost-effective renewable energy. VEC buys GMP wind power for 12 cents per kwh and sells the associated REC for about 5.5 cents kwh increasing our collective carbon footprint.

As Vermont's new renewable energy program is trotted out again with the Blittersdorf-proposed 5 megawatt wind project in Irasburg, be watchful for the deceptive use of language. According to 9 V.S.A. § 2453 "... deceptive acts .. in commerce ... are unlawful." While no longer allowing double counting, current policy still allows RECs to be sold out of state increasing our carbon footprint.

<http://www.rutlandherald.com/article/20150918/OPINION02/709189951/1018/OPINION>

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Solar collectors are blue plague

September 18, 2015

Re: "Report: Green energy drives Vt. jobs," Sept. 15. The thought of the blue plague of solar collectors overspreading Vermont's green vistas reminds me of an American officer's quote from the Vietnam War: "It became necessary to destroy the town (in order) to save it."

RICHARD L. BROWN

Rutland

<http://vtdigger.org/2015/09/17/solar-task-force-learns-space-demands-of-vermonts-future-energy-needs/>

HIGH SPACE DEMANDS FOR VERMONT'S FUTURE SOLAR FARMS IF ENERGY STAYS LOCAL

MIKE POLHAMUS <<http://vtdigger.org/author/mike-polhamus/>> SEP. 17 2015,

9:05 PM 31 COMMENTS

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South Burlington's new twenty-five acre solar farm promises to generate a reported 2.2 megawatts of electricity for the state, enough to power roughly 450 homes. VTD/Eric Blokland

Vermont would need an additional 200 to 350 acres of photovoltaic cells each year to meet anticipated power demands in Vermont by 2050, according to future scenarios presented to state leaders Thursday.

The proposed scenarios could meet the legal requirements for power generation by the year 2050, but they are meant to be considered as possible developments, rather than understood as plans or goals, state experts told members of the Solar Siting Task Force.

At the second meeting of the task force, a legislative study committee charged with helping write a law to guide where solar farms can be built, Asa Hopkins, Director of the Planning and Energy Resources Division of the state's Public Service Department, presented the challenges in meeting the state's long-term energy goals.

Renewable energy sources account for about 16 percent of Vermonters' total energy consumption. The 2050 goal is to raise that to 90 percent. All of the energy-production scenarios Hopkins presented were based on the assumption that Vermonters want most of their energy produced in state.

"This 90 percent goal reflects a strong desire among Vermonters to be energy secure and energy independent, to ensure stable prices, and as much as possible to rely on sources indigenous to Vermont," Hopkins said.

“We don’t have local fossil fuel resources, or nuclear fuel resources, and so the resources indigenous to Vermont are renewables,” he said.

“We’re trying to do our part to try to mitigate climate change, and meet the state’s greenhouse reduction goals ... moving to a more efficient and renewable energy mix helps keep more money local, resulting in a state economic benefit,” he said.

The figures make up an important piece of the state’s new Comprehensive Energy Plan, which officials anticipate releasing to the public within weeks.

The plan raises the state’s 16 percent renewable energy use to 25 percent by 2025, Hopkins said.

The state is using current technology to develop models for energy-production projections decades into the future, Hopkins said. Current projections show that 150 kilowatts of power is generated for every acre of solar panels, Hopkins said.

If the state used solar cells to deliver the majority of future power needs, an additional 8,000 to 13,000 acres of panels would need to be built over the next 35 years.

Policymakers intend to put their “thumb on the scale” and encourage solar developers to install panels on structures, several task force members said. There are at present roughly 3,650 acres of commercial building area in the state, Hopkins said.

Demand for power in Vermont is expected to be 9 terawatt-hours per year in 2050, Hopkins said. That projection assumes dramatic reductions in power requirements as the result of improved efficiency and conservation measures, Hopkins said.

The state of Vermont currently uses between 5 and 6 terawatt-hours per year.

Members of the Solar Siting Task Force say they’re in an “exploratory phase” now, prior to developing and delivering recommendations to the Legislature by mid-January.

The nascent task force had some detractors during a half-hour public comment period following Hopkins’ presentation and another by landscape architect and planner David Raphael.

Kathleen Nelson disputed the group’s credibility. The task force, she said, does not include a single public advocate and is stacked with industry representatives.

“This task force is devoted to promoting the industry,” she said.

Montpelier resident Ben Eastwood said communities might benefit from

community solar arrays as an alternative to large installations put in place by out-of-state corporations.

Vermonters in general support the state's renewable energy goals, Gabrielle Stebbins, the executive director of Renewable Energy Vermont and a task force member.

"The majority of Vermonters, when you poll them, they still poll very much in support of conservation, and renewables, and having local energy, just like they support local foods," she said.

Noelle MacKay, commissioner of the Department of Housing and Community Development, said task force members are still trying to pin down what issues confront the group.

"I think we're still in the exploratory phase," she said.

The group's goals still need to be precisely articulated, she said. They must also determine how to arrive at those goals, how to meet the concerns of members of the public, and how to meet the needs of developers.

"I think this issue is really complex," MacKay said. "There are a lot of different pieces.

"The Legislature put this committee together, and assigned who's on it," she said. "The people who are there will do their best to find the facts, to understand the issues, and make some thoughtful recommendations to the Legislature this year."

<http://www.wcax.com/story/30055272/uvm-plans-to-go-solar>

UVM plans to go solar

/Posted: Sep 17, 2015 12:31 PM EDT//Updated: Sep 17, 2015 7:02 PM EDT/

By Eliza Larson

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BURLINGTON, Vt. -

The University of Vermont announced plans to become more solar-friendly, but it's looking to providers to help decide where to put the panels.

In order to brighten UVM, the school is turning toward the sun. UVM is considering a number of expansions that will affect how it powers its campus. In a partnership with the Burlington Electric Department, the school is looking at several projects to bring more solar power on campus.

"Instead of picking any one project, we put the whole campus up for an RFP. Ask solar developers where we should build solar on campus," said Neale Lunderville, Burlington Electric Department general manager.

Lunderville says solar developers are using a map of the campus to generate ideas for potential solar panel locations.

"The University of Vermont has a long history of being a very environmentally conscious, green university. And by working together with a green utility like Burlington Electric, we're finding ways they can both create local power, create some revenue streams for them which they may not have had before and contribute to the overall fabric of that environmental consciousness that they have," said Lunderville.

Lunderville says proposals must include plans to build solar panels on campus buildings or solar canopies over parking lots. They want to avoid the campus green spaces, a tactic he thinks will not detract from the campus' beauty. Some students agree.

"I don't think it's bad at all. I think it kind of - it would be beneficial to the school. Obviously it's already a super green school with all the recycling and all the alternative energy, but I think it would just improve it," said Hannah Kenney, UVM freshman.

Other students think building a more solar-friendly campus emphasizes UVM's effort to be environmentally conscious.

"I'd feel more comfortable with a lot more solar panels around, you know. Renewable energy is definitely the future," said Tripp Pace, UVM junior.

"The school supports being environmentally friendly and it really just brings it up and helps more," said Nichole Brady, UVM freshman.

Lunderville says BED will work with the university to decide which proposals are best suited for the school. It could be more than one, but in the end, it's the university that decides where to attract the sun.

Proposals must be received by BED no later than Nov. 15 of this year.

<http://www.rutlandherald.com/article/20150915/NEWS03/709159923/1004/NEWS03>

Report: Green energy drives jobs

By Neal P. Goswami <mailto:neal.goswami@rutlandherald.com>

VERMONT PRESS BUREAU | September 15, 2015

MONTPELIER — Gov. Peter Shumlin is touting a report commissioned by the Vermont Department of Public Service that shows rapid job growth in the clean energy industry.

So-called green energy jobs — from solar, wind and other renewable energy sources — have spiked in the past few years, Shumlin said Monday.

“The clean energy industry grew by 6.2 percent this year. It now supports 16,231 jobs. That’s up 1,000 jobs from a year ago,” the governor said at Building Energy, a Williston construction firm specializing in energy efficiency. “We expect to add an additional 1,000 jobs in the next six months.”

The second annual report found that the green energy sector in Vermont has grown by 9.8 percent since 2013 and now includes 2,519 businesses. More than 80 percent of those businesses have 10 or fewer employees, and about 66 percent have fewer than five employees.

“The choices that we’re making about energy, moving from dirty oil and coal to renewables, getting energy efficiency right, is creating jobs for Vermonters. It’s working for our economy,” Shumlin said. “It’s also reducing rates for Vermonters and putting money in their pockets.”

State officials said they were unsure how many of the more than 16,000 jobs in the clean energy sector are directly with energy businesses. The total includes ancillary jobs, including professional services like accounting, that derive some business from that sector.

“Anything where someone feels they are either partially or fully contributing to the clean energy economy is included,” Public Service Commissioner Christopher Recchia said.

Still, the number of jobs within the clean energy industry is on the rise and projected to grow about 6 percent next year, he said.

The renewable energy boom, particularly in solar, has allowed the state to reduce incentives for solar production. Recchia said the state was providing incentives worth more than \$2 per kilowatt-hour for solar production several years ago to encourage its growth. Last year the incentive was dropped to 20 cents and was eliminated this year altogether, he said.

“We’re no longer providing incentives for solar, and it’s not because we don’t like solar — it’s because we were successful. The businesses have grown, they have matured, and they were successful,” Recchia said.

The popularity of solar energy has some people concerned that

installations are becoming too large and too prevalent. Ranger Solar, a New York-based company, is proposing at least four 20-megawatt solar farms in Barton, Highgate, Ludlow and Sheldon. The projects would double the solar output in Vermont, and each would require hundreds of acres.

Shumlin said Monday he has concerns the Ranger Solar proposal may be too big, too fast. "So, we all have to work together to figure out how we get this right. At the same time, we can't let it slow down the efforts that we're making right now, the success that we're having," he said.

The governor also said the state cannot "move fast enough to get off oil and coal and move toward renewables." He said Vermonters will naturally disagree over the appropriate size and scope of solar projects.

"There is going to be a vigorous debate in Vermont as we move from generation out there somewhere to solar, wind and other forms of energy that are generated right before our eyes. It's no different, I would suspect, than probably the debate that went on in general stores and Main Streets when the last governor from Putney, George D. Aiken, had to run power lines to the last mile of every community," he said. "I bet you there were plenty of people who thought those power lines were ugly and didn't understand why they were cutting the trees down ... and replacing them with power lines."

Shumlin said the debate is healthy, and the state must figure out "what is too big and make sure that we do this in a way that's in keeping with Vermont's extraordinary natural beauty."

"We can do that. I'm convinced of it," he said. "Where I get concerned is when the public loses faith in the process that we have in place that not only invites that debate but helps to resolve that debate."

That process, through the Public Service Board, works and should be maintained, Shumlin said. Local communities have their concerns considered as the board vets projects, he said. But some residents and municipalities have expressed frustration in recent years when projects they oppose get the green light from the PSB.

"I think that if local municipalities had veto power over energy projects, over telecommunication projects — any of the questions where, 'Is it in the public good for everybody?' — you would have absolutely no progress in Vermont going forward," Shumlin said. "The board considers their opinions, but the board also has to ask under Vermont law, 'What does this mean for the rest of Vermont?' That is the standard that we should stick to."