

HILL ATTORNEY PLLC
144 MEAD LANE MIDDLEBURY VT 05753
802-989-6906
HILLATTORNEYPLL@GMAIL.COM

ADMITTED TO PRACTICE:
VERMONT
FEDERAL DISTRICT COURT VERMONT
FEDERAL DISTRICT COURT MASSACHUSETTS
1ST AND 2ND CIRCUIT COURTS OF APPEAL
U.S. SUPREME COURT

2016 OCT 24 PM 2 01

VERMONT PUBLIC
SERVICE BOARD

JW
JV
MC
SH
JC
BF
MK
DW

24 October 2016

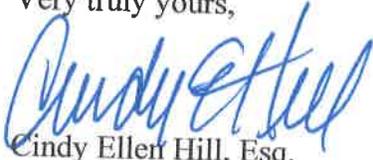
Judith Whitney, Clerk
Vermont Public Service Board
112 State Street #4
Montpelier VT 05620

RE: Petition of Swanton Wind LLC, Docket 8816
Notice of Appearance of Counsel
Motion to Intervene with Supporting Affidavits

Dear Mrs. Whitney,

Enclosed please find an original and eight copies of my Notice of Appearance on behalf of Christine and Dustin Lang, together with the Lang's Motion to Intervene and supporting affidavits, and Certificate of Service for same.

Very truly yours,


Cindy Ellen Hill, Esq.

enc.

STATE OF VERMONT
PUBLIC SERVICE BOARD

VERMONT PUBLIC
SERVICE BOARD

2016 OCT 24 PM 2 02

Docket No. 8816

Petition of Swanton Wind LLC)

**MOTION TO INTERVENE OF
CHRISTINE LANG AND DUSTIN LANG**

Now come Christine Lang and Dustin Lang and do hereby move this honorable Board to grant their intervention in the matter referenced above pursuant to Public Service Board Rule 2.209(A)(3), or alternatively pursuant to Public Service Board Rule 2.209(B).

The Public Service Board rule regarding intervention states as follows:

2.209 Intervention

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

(B) Permissive intervention. Upon timely application, a person may, in the discretion of the Board, be permitted to intervene in any proceeding when the applicant demonstrates a substantial interest which may be affected by the outcome of the proceeding. In exercising its discretion in this paragraph, the Board shall consider (1) whether the applicant's interest will be adequately protected by other parties; (2) whether alternative means exist by which the applicant's interest can be protected; and (3) whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public.

Christine Lang and Dustin Lang are adjoining property owners who have substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 that are likely to be adversely affected by the outcome of the proceedings in this matter.

Christine Lang and Dustin Lang reside at 21 Rocky Ridge Road in Swanton. Their home adjoins the property upon which this development project is proposed. The project would be visible and audible from their home, which is also at a lower elevation than the project.

Christine Lang and Dustin Lang anticipate, at a minimum, being directly negatively affected by elements of the project in relation to the following §248 criteria, as reflected by particularized information contained within their affidavits appended hereto:

30 VSA 248(b)(1), (3), (4) and (5)

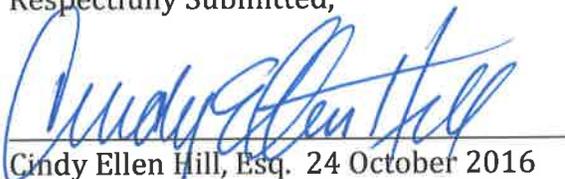
10 VSA 6086(a)(1)(C)(E) and (G), (3),(4), (5) and (8)

No other party will adequately protect these interests of the Movants and there are no alternative means by which these interests may be protected.

In support of this Motion, Christine Lang and Dustin Lang attach Affidavits hereto.

Wherefore, Christine Lang and Dustin Lang pray that they be permitted to Intervene in this Docket No. 8816 as parties in accordance with PSB Rule 2.209(A)(3), or alternatively under PSB Rule 2.209(B) in regards to each and all of the §248 criteria listed above.

Respectfully Submitted,



Cindy Ellen Hill, Esq. 24 October 2016

Hill Attorney PLLC

144 Mead Lane

Middlebury VT 05753

802-989-6906

hillattorneypllc@gmail.com

STATE OF VERMONT
PUBLIC SERVICE BOARD

VERMONT PUBLIC
SERVICE BOARD

2016 OCT 24 PM 2 02

Docket No. 8816

Petition of Swanton Wind LLC)

**AFFIDAVIT OF CHRISTINE LANG IN SUPPORT OF
MOTION TO INTERVENE OF
CHRISTINE LANG AND DUSTIN LANG**

I, Christine Lang, in support of the Motion to Intervene filed by myself and my husband Dustin Lang, subject to the penalties of perjury, do hereby state the following facts, which are true to the best of my knowledge and ability:

1. I reside at 21 Rocky Ridge Road. Our mailing address is St. Albans, but our physical location is Swanton. Our home adjoins the property upon which this development project is proposed. The project would be visible and audible from our home, which is also at a lower elevation than the project. Our home is approximately 2000 feet from the nearest turbine.

2. I have lived at this address since July 2011. The view and quiet surroundings were significant factors in our selection and purchase of our land and building our home. Construction of this proposed project would materially diminish the quality of the view and intrude upon the visual and auditory harmony of our home.

3. Another significant factor in purchasing this property was the access to many acres for hiking, snowshoeing and enjoying nature. We could head out from our backdoor with our dog and spend a couple of hours just wandering through the woods enjoying various wildlife, finding animal tracks, watching waterfalls after a rain and watching activity in the high elevation ponds. We could do this almost any time of year, but we always had to be conscious of the wet areas and wear appropriate footwear. In the wintertime, we often had friends come over to go snowshoeing in the woods and up along the ridge. We have already had that access diminished as we are no longer welcome to hike or enjoy any of the property on the ridge where the turbines are proposed. Construction of this project would mean that this land would be inaccessible to us forever.

4. I work from home, and the nature of my work is exacting, requiring quiet for concentration. I am either on conference calls requiring my undivided attention or I am

focusing on computer programming work. Noise from this project would disrupt my ability to work from my home. As my work is internet-based, impacts to the local electrical distribution circuits such as voltage flicker, drops or surges would also negatively impact my livelihood.

5. Because I am home most of time (due to working from home), I also spend a lot of time outside. I will work outside on nice days. I have a back patio which faces the ridge and a front porch which faces West. My dog and my cat are both usually outside with me. While we are out there, we are often met with birds flying around and hummingbirds during the summertime. I also spend a lot of outdoor time in my large garden. I enjoy growing vegetables and we have increased the garden size each year. Noise from this project would affect my ability to continue the peaceful enjoyment of my time outdoors.

6. I am very sensitive to noises. I once had to purchase a new refrigerator because the old one would make louder noises at random times and it would disrupt my sleep. Our master bedroom has two windows on the side facing the ridge. If noise from this project would be allowed to fluctuate over an hour, that would most definitely disrupt my ability to sleep.

7. With our property line being less than 2000 feet from the nearest turbine, we are concerned about ice throw damaging our land, vehicles, our home or even ourselves. Turbines have been known to throw ice more than 2000 feet. Construction of this project would cause us to have concerns on all cold and especially damp or snowy days.

8. The sun comes up over the ridge outside of our bedroom window. We also have a sunroom that faces the ridge. Construction of this project would create shadow flicker in the mornings which could interrupt our sleep and our enjoyment of our sunroom. In addition, the moon rises over the ridge in the evenings. I often enjoy the view of the moon from my bed. Construction of this project would create shadow flicker from the moon as it rises over the ridge which would be disruptive to sleep.

9. Our road is a dirt, dead end road and we walk our dog on the road every day, rain or shine. Construction of this project would disrupt those walks with noise and shadow flicker.

10. We feed the birds at our home every winter. On average, we feed the birds 200 pounds of bird seed over the course of a winter. The bird feeders are filled every day and we enjoy watching the many types of birds that entertain us. Construction of this project

would disrupt many of the birds and would reduce our enjoyment. These birds also eat the fruits of invasive species in the area such as: European Buckthorn (*Rhamnus cathartica*), Multiflora Rose (*Rosa multiflora*) and they would disseminate them on the exposed soils of the industrial wind turbine project.

11. In the summertime, we feed the hummingbirds. Those feeders are refilled about every other day and we are entertained frequently by the hummingbirds. They have fed from the feeder while I am holding it to carry it out once it is refilled. They dive bomb us while we are eating on our patio or front deck. Construction of this project would disrupt many of the hummingbirds and would reduce our enjoyment.

12. We have game cameras in the woods to watch wildlife. On those cameras, we have seen hundreds of deer, many bobcats (including two together once), coyotes and turkeys. Construction of this project would disrupt the habitat for the wildlife.

13. Our well is located on the Northeast corner of our property putting it closer to the proposed project. We currently have good potable water and a decent flow rate. Construction of this project will put many tons of cement into the ground above us which could then leach down into our water supply. Blasting could change the water flows and change or degrade our water source by introducing sediment or reducing flow or recharge rates.

14. Water on the ridge currently flows in waterfalls behind our house when it rains or when snow is melting. This water accumulates well below our home in an old beaver dam which flows into Hungerford Brook which flows into Lake Champlain. Construction of this project is likely to increase and or change the flow of water around our home and into Hungerford Brook and Lake Champlain.

15. The petition for this project mentions blasting. My dog is extremely sensitive to loud noises. The other day when we were sitting outside with the dog, we heard a dump truck tailgate bang (it was a distance away, certainly more than 2000 feet), and she jumped up and started running in a circle and barking. Blasting for this project would require us to remove ourselves and our dog from our home for all periods of time when blasting was occurring.

16. The petition mentions blasting, but not how many pounds of explosives will be used. At only 2000 feet away with hard surfaces (ie. Rock, ledge, bedrock) between my property and the location of the proposed blasting, the vibrations through the ground from

the blasting would have the potential to affect my foundation and could crack the walls in the house. Will blasting mats be used?

17. Industrial Wind Turbines are known to generate vibrations in the ground. Again, since I am only 2000 feet away with hard surfaces between my property and the proposed Industrial Wind Turbines, that vibration could affect my foundation, well and/or my septic.

18. Traffic that would be occurring from the construction of this proposed project would all occur on the private dirt access road to our home. This is the same road that is currently used by young children to walk down each day to catch the school bus and again when they come home. I also walk my dog every morning on that road. Numerous trucks and the size of the equipment utilizing that single road would affect our ability to enjoy our private dirt road and may impact the quality of the road and the culverts underneath it.

19. Having spoken with local real estate agents in town, construction of this project would have a negative effect on the value of our home. The term in real estate is location, location, location. If you can choose a similar home not located next to an industrial wind project, you would be willing to pay more money for it. Our home is our most important investment and the construction of this project would take value from us.

20. Our home and homes located near this project would lose value along with homes with views of the project. This has been shown in other towns in Vermont that have reduced property values for homes in close proximity to Industrial Wind Turbines or homes that can see turbines. Since homes are closer to this proposed project than any home is to an existing project, it makes sense that the loss of home value would be greater than the loss experienced so far. This would cause a decrease in the tax base for the town which would increase the tax rate overall for the town.

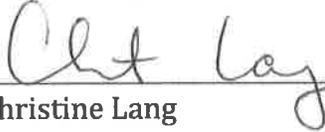
21. Our town plan notes that Interstate 89 is the gateway from Canada into the United States. As it passes through Swanton, Rocky Ridge is the only prominent ridge in Swanton and dominates the view to the East. Also, the Missisquoi Rail Trail is located in close proximity to the west of this project with many views of this ridge. Construction of this project would materially diminish the natural view along the gateway and the Rail Trail.

22. Each year, thousands of geese fly back and forth over the ridge at heights below 500

feet. These geese do not just pass through once. They travel back and forth from Fairfield Pond on the East side to the corn fields on the West side. Construction of this project would affect many of these geese.

23. Eagles (bald and golden) and loons live on Fairfield Pond and are known to travel over Rocky Ridge. We see them flying over our home on a regular basis. Construction of this project would affect these birds.

24. I have significant concerns about the appearance and location of supporting equipment and utility infrastructure for the project .What will the connection to the power lines look like? At the initial meeting of Swanton Wind I was told by John Zimmerman that it would just be a box about the width of his hands spread (2-3 feet in size). I have now seen the transfer station for the GMCW project and it is a lot more elaborate than that. I have not seen where that will be located for this proposed project. There is much common land for the Homeowner's Association along the road into the development and a transfer station the size of GMCW or larger would have a negative impact on the Association's ability to enjoy their common land.



Christine Lang
Date: 10/21/16

Subscribed and sworn to before me:



Name:
Notary Public
My Commission Expires: 2/10/2019

STATE OF VERMONT
PUBLIC SERVICE BOARD

VERMONT PUBLIC
SERVICE BOARD

2016 OCT 24 PM 2 03

Docket No. 8816

Petition of Swanton Wind LLC)

**AFFIDAVIT OF DUSTIN LANG IN SUPPORT OF
MOTION TO INTERVENE OF
CHRISTINE LANG AND DUSTIN LANG**

I, Dustin Lang, in support of the Motion to Intervene filed by myself and my wife Christine Lang, subject to the penalties of perjury, do hereby state the following facts, which are true to the best of my knowledge and ability:

1. I reside at 21 Rocky Ridge Road. Our mailing address is St. Albans, but our physical location is Swanton. Our home adjoins the property upon which this development project is proposed. The project would be visible and audible from our home, which is also at a lower elevation than the project. Our home is approximately 2000 feet from the nearest turbine.

2. I have lived at this address since July 2011. The view and quiet surroundings were significant factors in our selection and purchase of our land and building our home. Construction of this proposed project would materially diminish the quality of the view and intrude upon the visual and auditory harmony of our home.

3. Another significant factor in purchasing this property was the access to many acres for hiking, snowshoeing and enjoying nature. We could head out from our backdoor with our dog and spend a couple of hours just wandering through the woods enjoying various wildlife, finding animal tracks, watching waterfalls after a rain and watching activity in the high elevation ponds. We could do this almost any time of year, but we always had to be conscious of the wet areas and wear appropriate footwear. In the wintertime, we often had friends come over to go snowshoeing in the woods and up along the ridge. We have already had that access diminished as we are no longer welcome to hike or enjoy any of the property on the ridge where the turbines are proposed. Construction of this project would mean that this land would be inaccessible to us forever.

4. Presently I work nights and sleep during the day so quiet surroundings are important for me to obtain adequate sleep to safely operate a tractor trailer at night. I will be retiring

in December of this year and plan to work around my home to create a comfortable and enjoyable environment as a reward for my many years of hard work. Noise from this project would ruin the peaceful surroundings that I have envisioned for myself and my wife and would depreciate the value and quality of all that I have worked so long to obtain.

5. When I retire I will be home most of the time and plan to spend a lot of time outside. I will work outside on nice days and I have a back patio which faces the ridge and a front porch facing west which I plan to take advantage of as a reward to myself. I have a degree in forestry, which has taken a backseat to my career, and I plan to practice my forestry skills improving the small area of woods on our property. There is an abandoned apple orchard on the adjoining property and I was going to inquire of the owner if I could prune and improve the over- grown apple trees to increase the fall and winter food source for the deer that winter in the deer yard on the hill which will be encroached upon by the proposed industrial wind turbine project. Noise from this project would affect my ability to peacefully enjoy this time outdoors. In addition, the project would cause the deer to discontinue their use of the deer wintering area as a result of their proximity to the noise and vibrations. Wintering deer require quiet areas to keep them safe from predators.

6. I am a sound sleeper, but when awoken randomly in the middle of my sleep pattern I find it difficult to fall back to sleep. If noise from this project would be allowed to fluctuate over an hour, it would most definitely disrupt my ability to sleep.

7. With our property line being less than 2000 feet from the nearest turbine, we are concerned about ice throw damaging our land, vehicles, our home or even ourselves. Turbines have been known to throw ice more than 2000 feet. Construction of this project would cause us to have concerns on all cold and especially damp or snowy days. Especially after the recently revealed incidences of the Georgia community wind industrial wind turbines which were icing to the point of excessive noise- could ice throw have been next?

8. The sun comes up over the ridge outside of our bedroom window. We also have a sunroom that faces the ridge. Construction of this project would create shadow flicker in the mornings which could interrupt our sleep and our enjoyment of our sunroom. Shadow flicker can occur from moonlight as well and the moon rises in this same area.

9. Our road is a dirt, dead end road and we walk our dog on the road every day, rain or

shine. Construction of this project would disrupt those walks with noise and shadow flicker. And excessive heavy truck traffic during the construction phase.

10. We feed the birds at our home every winter. On average, we feed the birds 200 pounds of bird seed over the course of a winter. The bird feeders are filled every day and we enjoy watching the many types of birds that entertain us. Construction of this project would disrupt many of the birds and would reduce our enjoyment. These birds also eat the fruits of invasive species in the area such as: European Buckthorn (*Rhamnus cathartica*), Multiflora Rose (*Rosa multiflora*) and they would disseminate them on the exposed soils of the industrial wind turbine project.

11. In the summertime, we feed the hummingbirds. Those feeders are refilled about every other day and we are entertained frequently by the hummingbirds. They have fed from the feeder while I am holding it to carry it out once it is refilled. They dive bomb us while we are eating on our patio or front deck. Construction of this project would disrupt many of the hummingbirds and would reduce our enjoyment.

12. We have game cameras in the woods to watch wildlife. On those cameras, we have seen hundreds of deer, many bobcats (including two together once), coyotes and turkeys. Construction of this project would disrupt the habitat for this wildlife.

13. Our well is located on the Northeast corner of our property putting it closer to the proposed project. We currently have good potable water and a decent flow rate. Construction of this project will put many tons of cement into the ground above us which could then leach down into our water supply. Blasting could change the water flows and change or degrade our water source by introducing sediment or reducing flow or recharge rates.

14. Water on the ridge currently flows in waterfalls behind our house when it rains or when snow is melting. This water accumulates well below our home in an old beaver dam which flows into Hungerford Brook which flows into Lake Champlain. Construction of this project is likely to increase and or change the flow of water around our home and into Hungerford Brook and Lake Champlain.

15. The petition for this project mentions blasting. My dog is extremely sensitive to loud noises. The other day when we were sitting outside with the dog, we heard a dump truck tailgate bang (it was a distance away, certainly more than 2000 feet), and she jumped up and started running in a circle and barking. Blasting for this project would require us to

remove ourselves and our dog from our home for all periods of time when blasting was occurring.

16. The petition mentions blasting, but not how many pounds of explosives will be used. At only 2000 feet away with hard surfaces (ie. Rock, ledge, bedrock) between my property and the location of the proposed blasting, the vibrations through the ground from the blasting would have the potential to affect my foundation and could crack the walls in the house. Will blasting mats be used?

17. Industrial Wind Turbines are known to generate vibrations in the ground. Again, since I am only 2000 feet away with hard surfaces between my property and the proposed Industrial Wind Turbines, that vibration could affect my foundation, well and/or my septic.

18. Traffic that would be occurring from the construction of this proposed project would all occur on the private dirt access road to our home. This is the same road that is currently used by young children to walk down each day to catch the school bus and again when they come home. Numerous trucks and the size of the equipment utilizing that single road would affect our ability to enjoy our private dirt road and may impact the quality of the road and the culverts underneath it.

19. Having spoken with local real estate agents in town, construction of this project would have a negative effect on the value of our home. The term in real estate is location, location, location. If you can choose a similar home not located next to an industrial wind project, you would be willing to pay more money for it. Our home is our most important investment and the construction of this project would take value from us.

20. Our home and homes located near this project would lose value along with homes with views of the project. This has been shown in other towns in Vermont that have reduced property values for homes in close proximity to Industrial Wind Turbines or homes that can see turbines. Since homes are closer to this proposed project than any home is to an existing project, it makes sense that the loss of home value would be greater than the loss experienced so far. This would cause a decrease in the tax base for the town which would increase the tax rate overall for the town.

21. Our town plan notes that Interstate 89 is the gateway from Canada into the United States. As it passes through Swanton, Rocky Ridge is the only prominent ridge in Swanton and dominates the view to the East. Also, the Missisquoi Rail Trail is located in

close proximity to the west of this project with many views of this ridge. Construction of this project would materially diminish the natural view along the gateway and the Rail Trail.

22. Each year, thousands of geese fly back and forth over the ridge at heights below 500 feet. These geese do not just pass through once. They travel back and forth from Fairfield Pond on the East side to the corn fields on the West side. Construction of this project would affect many of these geese.

23. Eagles (bald and golden) and loons live on Fairfield Pond and are known to travel over Rocky Ridge. We see them flying over our home on a regular basis. Construction of this project would affect these birds.

24. I have significant concerns about the appearance and location of supporting equipment and utility infrastructure for the project. What will the connection to the power lines look like? At the initial meeting of Swanton Wind I was told by John Zimmerman that it would just be a box about the width of his hands spread (2-3 feet in size). I have now seen the transfer station for the GMCW project and it is a lot more elaborate than that. I have not seen where that will be located for this proposed project. There is much common land for the Homeowner's Association along the road into the development and a transfer station the size of GMCW or larger would have a negative impact on the Association's ability to enjoy their common land.



Dustin Lang

Date: 10/21/16

Subscribed and sworn to before me:



Name: Kristina H. Jenkins

Notary Public

My Commission Expires: 2/10/19

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Docket No. 8816

Petition of Swanton Wind LLC)

CERTIFICATE OF SERVICE

I, Cindy Ellen Hill, attorney for intervenors Christine and Dustin Lang in the above captioned matter, do hereby certify that I service the foregoing NOTICE OF APPEARANCE OF COUNSEL and MOTION TO INTERVENE with supporting affidavits upon the parties and interested persons as follows by first class mail, and by electronic mail where email addresses were known.

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

William H. Rice, AAG
Vermont Agency of Transportation
One National Life Drive
Montpelier VT 05633-5001

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

Brian and Penny Dubie
PO Box 1075
St. Albans VT 05478

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

Greg Pierce
12 Farrar Street
St. Albans VT 05478

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

Robert Pforzheimer
339 Michaud Drive
Sutton VT 05867

Marcella Dent, Program Technician
ANR Office of Planning
1 National Life Drive Davis 2
Montpelier VT 05620-3901

Sally Collopy
157 Swizler Point
Fairfield VT 05455

Patricia P. Rainville
1952 Sheldon Road
St. Albans VT 05478

Annette Smith, Executive Director
Vermonters for a Clean Environment
789 Baker Brook Road
Danby VT 05739

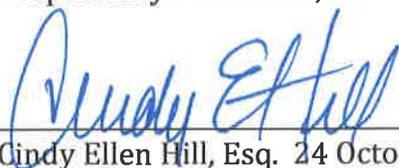
Sara Jane Luneau-Swan
141 Sweet Hollow Road
Sheldon VT 05483

Fred and Kathy Parks
98 South Street
Essex Junction VT 05452

JoAnn Q. Carson
11 Northshore Drive
Burlington VT 05408

Kim Sears
18 Paddock Lane
Williston VT 05495

Respectfully Submitted,



Cindy Ellen Hill, Esq. 24 October 2016
Hill Attorney PLLC
144 Mead Lane
Middlebury VT 05753
802-989-6906
hillattorneypllc@gmail.com