

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Docket No. 8816

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

**MOTION TO INTERVENE OF  
ROBERT PERKINS**

I, Robert Perkins, *pro se* under Public Service Board Rule 2.209(A)(3), or alternatively under Board Rule 2.209(B), move to intervene in the above-referenced matter.

As a non-adjointing property owner, I have substantial, specific, and particularized interests that may be adversely affected by the outcome of this proceeding. This proceeding is the only means by which I can protect my interests, and these interests will not be adequately protected by other parties to this proceeding. My interests are unique to protecting the use and enjoyment of my property and the public areas nearby, and my perspective is sufficiently distinct from that of other parties.

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

**Memorandum**

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

- (i) aesthetics and scenic natural beauty, pursuant to 30 V.S.A. § 248(b)(5), and 10 V.S.A. § 6086(a)(8);
- (ii) orderly development of the region, 30 V.S.A. § 248(b)(1);

- (iii) economic benefit to the State and its residents, § 248(b)(4);
- (iv) public health and safety, § 248(b)(5);
- (v) water pollution, conservation, and burden on water supply,  
§§ 6086(a)(1), (3), and (4); and
- (vi) wildlife habitat, § 6086(a)(8).

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

**I. Legal Standard**

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

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

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

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

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

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

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

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

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

## **II. Potential Impact of the Project on Robert Perkins’ Interests**

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

### **1. Robert Perkins’ Property**

I reside at 110 Rapport Drive in North Carolina, but I spend my summers in Vermont at my summer cottage at 563 Simonds Road, Fairfield. My cottage is located on the east side of Fairfield Pond approximately one mile from the site of the proposed Project. The turbines associated with the project would be visible and audible from my cottage, and their sound would be amplified in traveling across the Pond.

I am originally from Vermont. I purchased the cottage in 1975 when I was 25 years old. My decision to buy the cottage was based largely on the scenic views, and the peace and quiet on the Pond. However now we are facing the threat of Industrial Wind spoiling the peace and serenity that we have enjoyed for so many years.

### **2. Aesthetics; Scenic Natural Beauty**

My children grew up enjoying the scenic views and peaceful setting of Fairfield Pond, and now my grandkids have the same opportunity. However this important experience that we share over three generations is at risk.

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

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

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

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

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

The State appears misguided in allowing developers to spoil its land, harm its residents, and destroy the pristine and majestic features of Vermont that we value so highly. In this case, we are concerned that the tranquility of Pond will be disrupted by the intrusive sight and persistent sound generated by the wind turbines.

In sum, construction and operation of the Project would affect my enjoyment of the scenic views and natural setting on my property; and likewise the Project would affect surrounding public areas including Fairfield Pond, the Missisquoi Valley Rail Trail, and nearby roads.

As a long-time neighboring landowner, I have a unique interest and perspective that would not necessarily be represented by other parties, and which may be useful to the Board in determining the outcome of this proceeding.

Therefore, I respectfully move to intervene on these issues. 10 V.S.A. § 6086(a)(8) (scenic natural beauty, aesthetics); and 30 V.S.A. § 248(b)(5) (aesthetics, natural environment).

**3. Orderly Development; Economic Benefit to the State**

We are gravely concerned over the potential impact of the Project on the value of our real estate. This concern is more than speculation; it is based on well-documented cases in which other wind projects adversely affected the values of nearby homes and cottages.

I understand that in this proceeding my interest in private property may not be considered, however the Project would not only affect the value of my property, but rather all the properties in the surrounding area thereby affecting the regional and statewide economy.

The Project in disrupting a rural setting with an industrial complex would interfere with the orderly development of the region. To illustrate this point, as I previously stated, the prudent and orderly development of the area around Fairfield Pond has enabled three generations in our family to use and enjoy these fine natural resources. Yet to allow the development of the Project would disrupt our lives, and the lives of so many, and generations to come. That type of development is not orderly, and it is not in the Vermont tradition.

Therefore, as a longstanding landowner and native of Vermont, I have a particular interest and perspective in the orderly development of the region, and in the statewide economy, that may be useful to the Board in determining the outcome of this proceeding. Therefore I move to intervene on these issues. § 248(b)(1), and (4), (orderly development, economic benefit to the state).

**4. Public Health and Safety**

We are concerned that our sleeping habits and ability to obtain a restful night's sleep will be impeded by the sound of industrial wind turbines carrying across the Pond.

Additionally, we are concerned that the blasting, drilling, and vibration from routine operation of the Project may damage the foundation of our cottage.

Therefore, as the Project may interfere with my ability to obtain restorative sleep, or may damage the foundation of my cottage, the Project poses a risk to health and safety. As no other party would adequately represent these interests, I should be allowed to intervene on this issue. § 248(b)(5) (public health and safety).

**5. Water Quality**

We are concerned that water run-off caused by construction or operation of the Project may affect the volume or quality of the water in Fairfield Pond.

Therefore, as a long-time neighbor concerned over the quality of water in the Pond, I move to intervene on this issue. § 6086(a)(1), (3), and (4).

**6. Wildlife and Habitat**

In Fairfield Pond we see Canada geese, cranes, and loons drifting along the waters during the summer. The Project may cause those wild birds to abandon this habitat due to the noise pollution from the turbines, or the danger they face from the spinning turbine blades.

I acknowledge that in this proceeding the Agency of Natural Resources may be best situated to intervene on this issue, however as a long-time landowner and patron of Fairfield Pond, I may provide useful insight into the extent and nature of the impact of the Project on the Pond, thus in the public interest I should be allowed to intervene on this issue. § 6086(a)(8).

**III. Conclusion**

While this Project purports to advance the public good, it also raises significant concerns over the public interest. Therefore, in order to protect myself, my family, and my neighbors throughout the State, I should be allowed upon the evidence presented herein to intervene in this proceeding.

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

By:



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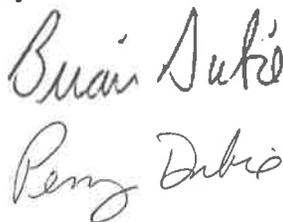
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VT PUBLIC SERVICE BOARD

CERTIFICATE OF SERVICE

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

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

By:



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