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July 23, 2012

Mrs. Susan M. Hudson, Clerk  
Vermont Public Service Board  
112 State Street - Drawer 20  
Montpelier, VT 05620-2701

Re: Docket No. 7508

Dear Mrs. Hudson:

The Department has reviewed a series of emails submitted to the Board by abutters to the Georgia Mountain Community Wind (“GMCW”) project, as well as GMCW’s response letter dated July 16, 2012. With this letter, the Department requests an investigation into one of the allegations made, and offers suggestions as to other concerns.

#### **I. Flyrock**

First, the FitzGerals have alleged that flyrock was propelled onto their property during blasting operations, and provided some visual evidence of same. GMCW states that it is “very unlikely any large flyrock was thrown onto the property.”

Paragraph 13 of the Certificate of Public good Requires GMCW to prepare a blasting plan and to “hire only licenced and certified blasting technicians, who shall . . . meet all local, state, and national regulations and requirements, including those established by the Vermont Department of Public Safety.”

GMCW’s Blasting Plan provides, in pertinent part:

Blasting activities will be performed in accordance with local, state, and federal laws and regulations, including U.S. Department of Interior Rules 816.6 1-68, 817.61.68, and the Blasting Guidance Manual, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of Interior. State laws include Vermont Statutes Title 13 Chapter 37 and Title 20 Chapter 177.



Blasting, Well Monitoring and Dust Plan at 3.

The referenced Department of Interior rules read, in pertinent part: “[b]lasting shall be conducted to prevent injury to persons, damage to public or private property outside the permit area . . .” 30 C.F.R. § 816.67(a). The rules further require that “[f]lyrock travelling in the air or along the ground shall not be cast from the blasting site . . . Beyond the permit boundary.” 30 C.F.R. § 816.67(c).

Vermont law also requires compliance with the National Fire Protection Association (NFPA) Uniform Fire Code (“NFPA 1”). Under the relevant provisions of NFPA 1, “[f]lyrock shall not be propelled from the blast site onto property not contracted by the blasting operation or onto property for which the owner has not provided a written waiver to the blasting operation.” NFPA 495 § 11.3.2. NFPA 1 also provides that “flyrock travelling through the air or along the ground shall not be cast from the blast site in an uncontrolled manner that could result in personal injury or property damage.” NFPA 495 § 11.3.1. NFPA 1 also recognizes that strict compliance with these standards may not be achievable: “[w]here blasting operations do not conform to 11.3.1 and 11.3.2, the [blasting company] shall require that special precautions be employed to reduce or control flyrock.” 495. §11.3.3.

There appears to be a factual dispute as to whether flyrock has been propelled beyond the permit boundary. The Department requests that the Board open an investigation into whether this condition of the CPG has been violated.

## **II. Other Potential Blasting Impacts**

In response to complaints regarding vibrations caused by the blasting, GMCW retained a firm to conduct seismic testing around the project and on an abutter’s property. The testing purports to demonstrate that acceptable standards are being met. The Department has no basis to dispute this finding, though the Board may consider hiring an independent expert to evaluate the report if it has any questions regarding the data or conclusions.

With regard to complaints pertaining to the timing of the blasting, the Department concurs that GMCW is meeting the letter of the CPG and Final Order in this docket. The Department believes, however, that GMCW should take all reasonable steps to provide affected landowners as much detail as possible regarding the timing and location of blasting, to attempt to alleviate some of the concerns raised regarding this issue. For example, if GMCW knows the location of blasting operations and the approximate time that blasting will occur, it would be appropriate to pass this information along to the abutters when notification is made at the start of the day.

There have been come reports of potential impacts on water supplies. To the Department's knowledge, these allegations are still being investigated, and there is no need for the Board to initiate an investigation as to these claims at this time.

### **III. Complaints re: Operational Issues**

The Department also notes that there have been other complaints regarding operational issues, including delivery drop-offs at the wrong location and an incident where telephone lines were damaged by construction equipment. While the Department is concerned about these incidents, they do not warrant an investigation and are capable of resolution without Board involvement.

There have been allegations made regarding compliance with permits issued by the Agency of Natural Resources. ANR is investigating those claims under its statutory authority.

Finally, there is a dispute over whether construction started at 6:15 A.M. on June 30, 2012; GMCW responded with a sworn affidavit stating that actual construction activities did not commence at that time. There does not appear to be a basis for an investigation of this incident.

In sum, the Department requests an investigation onto whether flyrock has been propelled beyond the permit boundary. Please let me know if you have any questions.

Sincerely,



**John Beling**  
Director for Public Advocacy

cc: Attached Service List