

# Verrill Dana<sup>LLP</sup>

Attorneys at Law

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April 13, 2011

By E-Mail and U.S. Mail

Donald E. Murphy, Project Planner  
Maine Land Use Regulation Commission  
22 State House Station  
Augusta, ME 04333

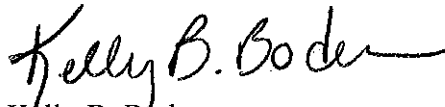
Re: Blue Sky East, LLC  
Bull Hill Wind Project - DP 4886

Dear Don:

In accordance with Section XI of the Presiding Officer's Pre-Hearing Conference Memorandum and Order, attached please find Blue Sky East's response to Agency Comments.

Please do not hesitate to contact me with any questions.

Sincerely,



Kelly B. Boden

KBB/mtr  
Enclosure

cc: Dylan Voorhees (via e-mail)  
Lynne Williams, Esq. (via e-mail)  
Philip Roy (via e-mail)  
Amy Mills, Asst. Attorney General (via e-mail)  
David Fowler (via e-mail)  
Geoff West (via e-mail)

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April 13, 2011

Donald E. Murphy, Project Planner  
Maine Land Use Regulation Commission  
22 State House Station  
Augusta, ME 04333

Re: Blue Sky East, LLC  
Bull Hill Wind Project – DP 4886

Dear Don:

Blue Sky East, LLC (“Blue Sky”) is providing the following response to LURC review comments on the Bull Hill Wind Project, dated March 24, 2011 as well as comments received from the Maine Department of Inland Fisheries and Wildlife dated March 10, 2011 from Mr. Richard Bard and Mr. Tom Hodgman. As stated in your e-mail dated April 12, 2011, Blue Sky East will submit responses to comments submitted by Mr. Rocque, Mr. Waddell and Mr. Hopeck by 5:00 PM on Friday, April 15, 2011.

The comments are identified below and each is followed by Blue Sky’s response. As stated in the review comments and noted, as appropriate, some items have already been addressed and a further response is not required in connection with this submission.

**A. LURC COMMENTS:**

**1. Comment:** It suffices that the two camps leases of concern in the project area were unilaterally terminated by the lessor or owner of the property as documented and provided with the application. Should any subsequent agreements or plans for camp removal have occurred, please provide additional copy.

**Blue Sky East Response:** Attached as Exhibit A are copies of two lease termination agreements for the camp leases identified above (Termination Agreements with Mark Desrosiers and James Watson, both dated March 9, 2011).

**2. Comment:** Note that a previous request regarding the signature of the lessor only on the project lease and its recording in the Registry was questioned. This was satisfied by Attorney Calcagni of Verrill Dana, LLP who provided a compliance letter for the record with a supporting attachment citing Maine statute – 33 MRSA Sec. 201. This has been entered into the record. No further request.

**Blue Sky East Response:** No further response required.

3. **Comment:** Note that per previous request on corporate officers for Blue Sky East, LLC., copies of the corporate 'Officers Certificate' and a 'Certificate of Incumbency' were promptly provided and added to the record. Further information is requested about the references in the 'Officers Certificate' which refers 1) to an unspecified 'Act' and 2) to the 'LLC Agreement'. Please provide certification about which 'Act' and a copy of the Blue Sky East Limited Liability Company Agreement, with acceptable redactions, for the record.

**Blue Sky East Response:** Blue Sky East, LLC is a limited liability company formed under the Delaware Limited Liability Company Act (the "Act"). Attached as Exhibit B is the Certificate of Formation filed with the Delaware Secretary of State confirming that fact. Maine Wind Holdings, LLC is currently the sole member of Blue Sky East, LLC. As set forth in the January 27, 2011 Officer's Certificate filed with the Maine Land Use Regulation Commission, pursuant to Section 7.1 of the Limited Liability Company Agreement and First Amendment thereto, Maine Wind Holdings, LLC is authorized to act on behalf of Blue Sky East, LLC on all matters affecting the business and affairs of Blue Sky East, LLC. The Act does not require a limited liability company to identify its members or officers or file a copy of the liability company agreement, which is why we provided an officer's certificate confirming that Maine Wind Holdings, LLC is authorized to act on behalf of Blue Sky East, LLC, and that Elizabeth Weir was assistant secretary of Maine Wind Holdings, LLC. Ms. Weir signed the Blue Sky East, LLC LURC application in her capacity as Assistant Secretary for Maine Wind Holdings, LLC, Member of Blue Sky East, LLC. Finally, Section 2.0 of the LURC application states that Blue Sky East, LLC is a wholly owned subsidiary of First Wind Maine Holdings, LLC. Blue Sky East, LLC is an affiliate of First Wind Maine Holdings, LLC. Blue Sky East, LLC is a wholly owned subsidiary of Maine Wind Holdings, LLC, which in turn is a wholly owned subsidiary of First Wind Holdings, LLC.

4. **Comment:** Concerning *Exhibit 7.B*: The anticipated Construction Schedule provided with the application is a good chronological outline of the anticipated timetable. To the greatest extent possible please include construction action descriptions as two comprehensive footnotes for dealing with the seasonal impacts of a 'wet spring' or harsh 'winter' conditions. Consider paralleling this construction chronology keyed along with an anticipated calendar dateline that would provide 'at a glance' what type of construction is taking place during the months of the year. It is understood that this is a best reasonable projection.

**Blue Sky East Response:** Attached as Exhibit C is a revised application Exhibit 7A with a narrative that notes the expected construction window, and explains the variables affecting that window.

5. **Comment:** The project requires two standard Spill Prevention and Containment Control Plan; one for Construction Phase and the other for the Operational period. LURC previously has required the Construction SPCC Plan during the application and the Operations SPCC plan as a condition of approval. Although, it is quite reasonable that both can be submitted during the application process.

This option is left to the applicant. It may be relatively straightforward for a developer with existing facilities to provide the Operational plan now as well. However you decide, a standard SPCC Plan for such a Construction Project is much more comprehensive than the one presented with the application. Please revise your submission accordingly and at a minimum include: the standard operating procedures (SOPs) for handling of the types of hazardous materials used on site; SOPs of spill prevention and control methods; methods of disposing of recovered spilled materials, the specific fact sheets on the various hazardous materials utilized on the site including any specific storage and use procedures; training of personnel; a designation and description of equipment refueling procedures with designated and designed refueling areas; a list of spill containment equipment kits maintained on site, their locations in facilities and vehicles, and directions for use and maintenance; applicable first aid procedures for exposure to hazardous materials; spill containment incident protocol and reporting procedures. The SPCC plan should identify the locations of the manuals; i.e., in the construction office and job site storage trailers, or the future Operations and Maintenance Facility. These manuals will also include the contact phone numbers you already provided in this section and an updating protocol to keep those contacts current.

**Blue Sky East Response: Attached as Exhibit D is a revised Construction SPCC Plan that revises application Exhibit 7C. An operations SPCC plan will be prepared and submitted to LURC prior to commencement of commercial operations.**

6. **Comment:** Should additional FCC lighting permits or regulatory application information occurred since the initial filing of the LURC application, please provide copies for the record.

**Blue Sky East Response: Any required FAA lighting permit updates will be provided to LURC as soon as they are obtained.**

7. **Comment:** Note that for *Section 10.0 SERVICES*: The Maine Forest Service project notification and review letter was received by LURC and included in this section of the application and the record.

**Blue Sky East Response: No response required.**

8. **Comment:** Please engage the Hancock County Commissioners Administrator and the County's Emergency Management Services in a discussion on coordination of communication and services between the County, the wind facility operators, and other regional emergency responders on potential emergency scenarios. Document their participation, describe those discussions and provide a copy for the record.

**Blue Sky East Response: During the past year, Blue Sky East representatives have been actively engaged in discussions with Hancock County emergency management contacts, including, Ms. Renee Wellman, Director of the Hancock County Regional Communications Center, in an effort to identify the best way to provide increased 911/ emergency services radio coverage for**

**T16. In addition, area residents and those who work in the project vicinity have identified installation of cellular service as the highest priority. Blue Sky East is working with County officials to identify a suitable location for a cellular tower and is willing to help fund the purchase or lease of the tower. We anticipate that Mr. Philip Roy, CFO of the Hancock County Commissioners will submit a letter documenting these efforts to LURC in the next few days and would be happy to keep LURC updated as the specific details of the plan to install/improve cellular and emergency service coverage in the project area is developed and implemented.**

**9. Comment:** The Soils Report by Frick Associates cautions that construction during times of seasonal high water tables and saturated soils will necessitate cautionary construction techniques. Please respond with a description of construction mitigation methods, such as dewatering methods and site related details. This response can be in a separate statement, but would best be added to the construction plan sheet for typical details and construction techniques. They may also be satisfied in the response to the State Soil Scientist, David Rocque.

**Blue Sky East Response: As authorized by D. Murphy e-mail dated April 12, 2011, response will be provided under separate cover.**

**10. Comment:** It is noted that the wetland impact has been avoided by the installation of a road bridge span. Whether the bridge is site-built or a pre-manufactured span is utilized, please provide any additional construction engineering details and a plan drawing of the bridge construction engineering.

**Blue Sky East Response: As authorized by D. Murphy e-mail dated April 12, 2011, response will be provided under separate cover.**

**11. Comment:** Note for *Section 11.0 SOUND ANALYSIS* that LURC requested additional sound analysis for the two receptors located in the Town of Eastbrook related to the Town's new wind facility ordinance and the applicant complied promptly. This sound analysis is in addition to that which had already been provided for DEP Chapter 375.10 noise control standards, reflects the standards in the Town's Ordinance for consideration by the Commission. This suggested analysis is per DEP Chapter 375.10 standards to consider a local Town sound performance standard if they exist for wind facilities. This has been submitted by the applicant and is being reviewed by LURC's acoustic consultant.

**Blue Sky East Response: Blue Sky has reviewed the comments submitted by LURC's acoustic consultant and no response is required at this time.**

**12. Comment:** Note that for *Section 18.0 VISUAL ANALYSIS AND SCENIC CHARACTER* various requests for further information had been requested by LURC's Scenic Assessment review consultant and have been fully supplied by the applicant. Those requests and responses have been entered into the record.

**Blue Sky East Response: No further response required at this time.**

13. **Comment:** Per previous discussions with the applicant and the earlier request for more information on *Section 20.0 DECOMMISSIONING*, please provide a description of the decommissioning procedures, cost assumptions, and process of funding that is preliminarily described in the application submittal. It is requested that the applicant provide a breakdown of the cost assumptions for the salvage value of \$9,000,000 that is credited against the cost of decommissioning. This is a significant number used in deriving the total for the decommissioning escrow fund. Discuss the implications of a turbine life cycle based on the lease period of 25 years or the optional lease extension totaling 50 years as it relates to variations in the total decommissioning cost and the predicted salvage value. In other words, what was the time period assumed in the decommissioning plan submitted with the application and what are the implications of a reasonably extended period of operation.

**Blue Sky East Response: In response to staff's request for additional information on the net decommissioning costs, attached as Exhibit E is a detailed decommissioning report prepared by Sewall. The Sewall report details the decommissioning costs and assumptions underlying those costs, as well as the salvage value estimates and assumptions underlying those estimates. As noted in that report, the decommissioning costs are based on disassembly of the component parts for sale as scrap, as opposed to disassembly in a manner that will allow for sale of intact component parts for re-use. Likewise, the salvage values are based on scrap values as opposed to resale value. The total decommissioning costs are \$1,885,000 and the total salvage value is \$1,636,000, leaving a net decommissioning cost of \$249,000.**

This report replaces the information provided in Exhibit 20 of the Application. The estimated decommissioning costs set forth in Exhibit 20 were based on disassembly of the project component parts, including the wind turbine generators, met towers and electrical collector system, in a manner that allowed for the sale and re-use of those parts. Disassembly for re-use is labor intensive and expensive, because it requires substantial construction oversight and specialized equipment, practices and testing to ensure that the components remain in working order and are available for re-use. For example, the process of turbine disassembly would in effect be the reverse of the initial turbine installation, and would require the use of specialized cranes to remove the blades and components and transport them off-site intact. Disassembly of component parts that will be sold as scrap is substantially less expensive because the parts do not need to be preserved for re-use but may be broken down on site and without utilizing special measures to ensure that the parts remain functional. Because the decommissioning costs in Exhibit 20 assumed the resale of component parts, the Exhibit 20 salvage values likewise reflect the higher values associated with re-use of intact components. In contrast, the Sewall report utilizes scrap metal prices, which is consistent with the decommissioning methodology in that report. The existence of a well-developed scrap metal market reduces the uncertainty in estimating salvage values and therefore we believe the updated methodology, which utilizes scrap metal prices in lieu of estimates of the re-sale value of wind turbine component parts, is an appropriate methodology.

14. **Comment:** For *Section 22.0 TANGIBLE BENEFITS* several conversations with the applicant have discussed further documentation of the programs described in the community benefits package section. It is noted for the application that the proposed tangible community benefits package described in the application involves an annual payment to the Town of Eastbrook and that this would satisfy the requirement of \$4000 per year per turbine. Additionally, described are the contributions to a fund for the improvement and preservation of water quality of the nearby lakes and a contribution to the Atlantic Salmon Foundation. Please provide further documentation of these proposed programs. Previous suggestions to the application are that such evidence could include letters of intent to participate from the Town of Eastbrook Selectmen or Town Manager, the Eastern Maine Development Corporation and the Atlantic Salmon Foundation. Another example is to provide a description of the lakes improvement programs organization, goals, geographic scope, administration of annual funds, project selection methods, and obligations agreed to by the Eastern Maine Development Corporation as designated administrator. These are suggestions of documentation. Please formalize these commitments in any way that you feel comprehensively documents the existence of these tangible benefits program.

**Blue Sky East Response:** A letter of intent from the Atlantic Salmon Foundation is already included in the application (Exhibit 22). Attached as Exhibit F is a letter from Attorney Erik Stumpfel, counsel to the Hancock County Commissioners providing an update on the status of discussions related to the community benefit agreement.

**B. MDIFW COMMENTS:**

1. **MDIFW Comment (Tom Hodgman):** I looked over the Post construction monitoring plan and see a few things that may warrant a slight change. 1) Weekly searches - I appreciate the analysis of bird/bat mortality over time and suggest modifying the weekly search plan - dropping a few weeks in early summer in exchange for a more continuous track of searches during spring migration and fall migration. I'd suggest searches be conducted April 15 to June 7 then July 7 to Oct 15. I think that's roughly the same number of weeks as proposed. 2) Daily searches - good idea, no changes to dates but which turbines will be searched??? Do you rotate through all??? 3) Carcass removal trials - See paper by Smallwood re scavenger removal trials [JWM 74(5):1089-1097]. Perhaps the number of carcasses used should be scaled back to avoid "flooding" or at least be sure to stagger them well over time. 4) Number of years - Need to see a commitment of at least 2 years of mortality searches with an option for a third depending on results in previous 2 years. Think this has been the norm to date and there has been no discussion on our end of modifying that. 5) Radar - I think we all agree another year of radar work is needed to see if the flight height and passage rate is anomalous or something that we just haven't seen before. 6) I'm intrigued by your discussion of curtailment. How do we get engaged in that discussion?? Is there still time to discuss on this project or perhaps more appropriate for your next project.

**Blue Sky East Response:** Please see memorandum prepared by Mr. Adam Gravel of Stantec dated April 13, 2011, attached as Exhibit G.

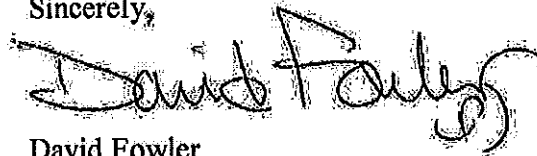
Donald E. Murphy, Project Planner  
Maine Land Use Regulation Commission  
April 13, 2011  
Page 7

2. **MDIFW Comment (Richard Bard):** The bat radar studies in Exhibit 13C of the application acknowledge that bat activity peaks when wind speeds are below 5.0 meters per second. Recent studies (Arnett et al. 2009 & 2010, Baerwald et al. 2008) at operating wind facilities have indicated that increasing the cut-in speed (the wind speed at which the turbine is allowed to begin rotating) for operating turbines to 5.0 meters per second has significantly decreased turbine-caused fatalities for bats. Therefore, in order to minimize risk of mortality to bats MDIFW recommends that operational control measures be established for the Blue Sky East project. These measures should be employed from April 20<sup>th</sup> through October 15<sup>th</sup>, such that the applicant set the turbine cut-in speed to 5.0 m/s starting at one-half hour before sunset to one-half hour after sunrise. During this time frame when the wind speed is less than the 5.0 m/s threshold, turbine blades are not allowed to rotate thus reducing risk of fatality for bats. If at any point during this time period the wind speed increases to > 5.0 m/s the turbine blades are free to rotate. I have included full citations for the above references:

**Blue Sky East Response:** Please see memorandum prepared by Mr. Adam Gravel of Stantec dated April 13, 2011, attached as Exhibit G.

Thank you for your consideration of these comments. Please do not hesitate to contact me with any questions.

Sincerely,



David Fowler  
Project Developer  
Blue Sky East, LLC



EXHIBIT A

## TERMINATION OF LEASE

THIS TERMINATION OF LEASE (the "Termination Agreement") is made as of this 9<sup>th</sup> day of MARCH, 2011, by and between LAKEVILLE SHORES, INC., a Maine corporation with a principal place of business at P.O. Box 99, Winn, Maine (hereinafter "Lessor"), and MARK A. DESROSIER, an individual with a mailing address of 81 Lori Drive, Plainfield, CT 06374 (hereinafter "Lessee"), WHO AGREE as follows:

1. RECITALS. This Termination Agreement is made with reference to the following facts and objectives:
  - a. Five Islands Land Company, as lessor, and Lessee entered into a certain Lease Agreement dated May 1, 2007 (the "Lease") for a certain camp lot known as "Lookout" or "State Camp" near Sugar Hill in Township 16 MD BPP, Hancock County, Maine (the "Leased Premises");
  - b. Lessor is the successor to Five Islands Land Company's interest in the Lease; and
  - c. Lessor and Lessee desire to terminate the Lease and their respective obligations thereunder.
2. TERMINATION OF LEASE. The Lease shall unconditionally terminate and expire at midnight on April 30, 2011 (the "Termination Date"). Lessee covenants and agrees that it shall, no later than Termination Date, vacate and surrender the Premises to Lessor, with all of its personal property removed. Any personal property remaining at the Leased Premises after the Termination Date may be disposed of by Lessor. Neither party shall have any further obligation to the other party under the Lease as of the Termination Date.
3. WARRANTIES. Each of Lessor and Lessee hereby represents and warrants to the other that, on the date of execution of this Termination Agreement and on the Termination Date, the following are true and correct:
  - (a) that its interest in the Lease has not been assigned or transferred, and that all bills for work or materials performed or furnished by or under it with respect to the Premises have been paid in full;
  - (b) that it is not the subject of any threatened or pending bankruptcy proceeding under 11 U.S.C. § 1 et seq., or any insolvency, receivership, trusteeship or similar proceeding; and
  - (c) that it has the legal power and authority to execute this Termination Agreement and to fully and effectively terminate the Lease as of the Termination Date, that the execution and delivery by it of, and the performance of all its obligations under this Termination Agreement, are duly authorized and do not and will not require any consent or approval of any party and do not and will not result in a breach of, or constitute a default under, any indenture, loan, credit agreement, mortgage, or other agreement to which it is a party or by reason of which it may be bound, that the individual signing below on its behalf has

the power and authority to execute this Termination Agreement on its behalf, and that this Termination Agreement constitutes its legal, valid and binding obligation enforceable in accordance with its terms.

4. MISCELLANEOUS. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, successors and assigns; provided, however, that Lessee shall not have the right to assign this Agreement or its interest in the Lease during the period this Agreement is in effect. If either party shall bring an action against the other for breach of this Agreement, the substantially prevailing party shall be entitled to recover its costs and reasonable attorney's fees from the nonprevailing party. This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this instrument under seal as of the day and year first above written.

WITNESS

LAKEVILLE SHORES, INC.

*Sydney J. Downs*

By: *Ginger E. Maxwell*  
Print: Ginger E. Maxwell  
Its: Treasurer

WITNESS:

*Janet Furman*

*Mark A. Desrosiers*  
Mark A. Desrosiers

JANET FURMAN  
Notary Public  
My Commission Expires On  
2/28/2014

*February 7, 2011*

## TERMINATION OF LEASE

THIS TERMINATION OF LEASE (the "Termination Agreement") is made as of this 9<sup>th</sup> day of MARCH, 2011, by and between LAKEVILLE SHORES, INC., a Maine corporation with a principal place of business at P.O. Box 99, Winn, Maine (hereinafter "Lessor"), and JAMES A. WATSON, an individual with a mailing address of P.O. Box 145, Gouldsboro, Maine 04607 (hereinafter "Lessee"), WHO AGREE as follows:

1. **RECITALS.** This Termination Agreement is made with reference to the following facts and objectives:
  - a. Five Islands Land Company, as lessor, and Lessee entered into a certain Lease Agreement dated May 1, 2007 (the "Lease") for a certain camp lot known as Site #1B, Project 345, on the east side of Heifer Hill in Township 16 MD BPP, Hancock County, Maine (the "Leased Premises");
  - b. Lessor is the successor to Five Islands Land Company's interest in the Lease; and
  - c. Lessor and Lessee desire to terminate the Lease and their respective obligations thereunder.
2. **TERMINATION OF LEASE.** The Lease shall unconditionally terminate and expire at midnight on April 30, 2011 (the "Termination Date"). Lessee covenants and agrees that it shall, no later than Termination Date, vacate and surrender the Premises to Lessor, with all of its personal property removed. Any property remaining at the Leased Premises after the Termination Date (including the hunting camp) may be disposed of by Lessor. Neither party shall have any further obligation to the other party under the Lease as of the Termination Date.
3. **WARRANTIES.** Each of Lessor and Lessee hereby represents and warrants to the other that, on the date of execution of this Termination Agreement and on the Termination Date, the following are true and correct:
  - (a) that its interest in the Lease has not been assigned or transferred, and that all bills for work or materials performed or furnished by or under it with respect to the Premises have been paid in full;
  - (b) that it is not the subject of any threatened or pending bankruptcy proceeding under 11 U.S.C. § 1 et seq., or any insolvency, receivership, trusteeship or similar proceeding; and
  - (c) that it has the legal power and authority to execute this Termination Agreement and to fully and effectively terminate the Lease as of the Termination Date, that the execution and delivery by it of, and the performance of all its obligations under this Termination Agreement, are duly authorized and do not and will not require any consent or approval of any party and do not and will not result in a breach of, or constitute a default under, any indenture, loan, credit agreement, mortgage, or other agreement to which it is a party

or by reason of which it may be bound, that the individual signing below on its behalf has the power and authority to execute this Termination Agreement on its behalf, and that this Termination Agreement constitutes its legal, valid and binding obligation enforceable in accordance with its terms.

4. MISCELLANEOUS. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, successors and assigns; provided, however, that Lessee shall not have the right to assign this Agreement or its interest in the Lease during the period this Agreement is in effect. If either party shall bring an action against the other for breach of this Agreement, the substantially prevailing party shall be entitled to recover its costs and reasonable attorney's fees from the nonprevailing party. This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this instrument under seal as of the day and year first above written.

WITNESS

LAKEVILLE SHORES, INC.

Kimberly J. Downs

By: Ginger E. Maxwell  
Print: Ginger E. Maxwell  
Its: Treasurer

WITNESS:

William C. [Signature]

James A. Watson  
JAMES A. WATSON

**EXHIBIT B**

# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "BLUE SKY EAST, LLC", FILED IN THIS OFFICE ON THE FIFTH DAY OF MAY, A.D. 2008, AT 3:08 O'CLOCK P.M.



4542955 8100

080504964

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 6570100

DATE: 05-06-08

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 03:13 PM 05/05/2008  
FILED 03:08 PM 05/05/2008  
SRV 080504964 - 4542955 FILE

CERTIFICATE OF FORMATION

OF

Blue Sky East, LLC

This Certificate of Formation of Blue Sky East, LLC the ("LLC"), dated the 2<sup>nd</sup> day of May, 2008, is being duly executed and filed by Maine Wind Partners III, LLC as an authorized person, to form a limited liability company under the Delaware Limited Liability Company Act (6 Del.C. Sec.18-101, et seq.).

1. The name of the limited liability company is Blue Sky East, LLC.

2. The address of its registered office in the State of Delaware is: Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Formation of Blue Sky East, LLC this 2nd day of May, 2008.

  
Evelyn Lira, Authorized Person of  
Maine Wind Partners III, LLC



# EXHIBIT C

### Anticipated Construction Schedule

This construction schedule provides a general description of the sequence of construction. Construction is anticipated in late 2011 and 2012, but cannot be tied to specific dates because the period for permitting and subsequent final financing is unknown, and unknown field conditions at the time construction is prepared to begin. Construction sequencing may vary depending on the actual start date and field conditions encountered at the time. Construction and erosion and sedimentation plans account for construction in various expected field conditions.

TASK	DURATION
Preliminary layout and staking of new road segments, turbine clearings, and laydown areas	Week 1 - Week 4
Installation of erosion control measures in areas to be disturbed	Week 2 - Week 12
Clearing for roads, turbines, and laydown areas	Week 3 - Week 5
Grubbing and initial grading for roads, turbine and laydown areas	Week 4 - Week 16
Underground trench/conduit work	Week 4 - Week 22
Blasting as necessary and on-site stockpiling of reusable blasted bedrock	Week 5 - Week 22
Hauling and stockpiling of aggregate from local borrow pits	Week 5 - Week 31
Final grading for roads and turbine areas	Week 6 - Week 36
Construction of turbine foundations and substation transformer pad	Week 6 - Week 32
Erection of temporary met towers	Week 6 - Week 20
Turbine delivery, assembly of rotors, tower erection, lifting of nacelles and rotor assemblies, construction of above ground and underground collection system, permanent met towers	Week 25 - Week 34
Removal of temporary met towers	Week 26 - Week 32
Installation of transformers, initial activation of turbines	Week 32 - Week 34
Commissioning and testing of wind turbine generators and electrical interconnections	Week 34 - Week 38
Start of commercial operations	Week 38
Reseed temporary clearings	Week 38 - Week 44
Removal of temporary erosion and sedimentation control materials upon final site stabilization and reseed.	Week 44 - Week 50

Revised April 2011

**EXHIBIT D**

# Construction Spill Prevention Control and Clean-up Plan

Bull Hill Wind Project  
Blue Sky East, LLC

**Prepared For:**  
Blue Sky East, LLC  
129 Middle Street  
Portland, ME 04011  
207.228.6888

**Prepared by:**  
Stantec Consulting  
30 Park Drive  
Topsham, ME  
April 2011

**NOTES:**

A COPY OF THIS SPCC PLAN SHALL BE KEPT ON THE PROJECT SITE IN ALL CONSTRUCTION OFFICES, TRUCKS, AND STORAGE TRAILERS AND MAY BE AMENDED BY THE BALANCE OF PLANT CONTRACTOR PRIOR TO CONSTRUCTION.

THIS PLAN IS FOR THE CONSTRUCTION OF THE BULL HILL WIND PROJECT IN LOCATED IN T16, MAINE.



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**Stantec**

## **General Requirements**

This construction SPCC plan intends to comply with Maine Revised Statutes, Title 38 §1318-C, **Spill Prevention Control and Clean-up Plan**. All Contractors/subcontractors will store, transport, and use oil, hazardous materials, and wastes in accordance with all applicable local, state, and federal regulations and these requirements. At a minimum, contractors/subcontractors will follow Best Management Practices when storing, transporting, or using oil, hazardous materials, and wastes. Vehicles and equipment containing petroleum that are in use on the ROW will be inspected daily for leaks or signs of deterioration that could cause a leak or spill. Contractors/subcontractors will repair leaking or deteriorated conditions prior to use. Contractors/subcontractors will take care not to cause an uncontrolled spill or release of oil or hazardous materials to the environment. Contractors/subcontractors will provide and maintain on-site sufficient spill cleanup and containment supplies (e.g., absorbent pads, containment booms, protective clothing, debris containers) to control releases of oil, hazardous materials, or wastes. In addition, operational vehicles will carry an oil spill kit that contains material for conducting initial containment and clean-up of spills. Contractors/subcontractors will remove oils, hazardous materials, wastes, and unused materials from the work site at the completion of the job. This includes full and partially full containers of waste material such as, but not limited to, rags, gloves, trash, scrap material, and empty containers. Within six months after the beginning of facility operations, an Spill Prevention Control and Countermeasure Plan associated with turbine operation, the O&M facility, and electrical substation will be completed in accordance with 40 CFR 112 and filed with the Land Use Regulation Commission (LURC) upon completion.

## **Project Description**

The Bull Hill Wind Project is a 19 turbine wind power project proposed by Blue Sky East, LLC (Blue Sky; the applicant) for Bull Hill and Heifer Hill ridges in T16 MD, Hancock County. The proposed turbines are Vestas V100 machines with a 1.8-megawatt (MW) rated power. The turbines will be on 95-meter towers and will have 100-meter rotor diameters. Total height with blades fully extended will be approximately 145 meters (476 feet).

The project also will include up to three 95-meter lattice type permanent meteorological (met) towers. During construction, up to three new temporary 95-meter met towers will be placed in turbine locations before the turbines are erected. These temporary towers will be removed prior to completion of construction.

The project area is owned by one landowner. The applicant has leased the area necessary for the siting of the project, and acquired other property interests as necessary to meet sound and setback standards. There is a network of existing haul roads and several gravel pits used for previous road construction. Existing roads will be utilized to the greatest extent possible, and on-site gravel pits will not exceed five acres. The 24-foot new access roads and 36-foot wide crane path will be maintained by the applicant. Roads outside of the project area, and therefore under the control of the landowner, would continue to be maintained by the landowner.

The only existing structures within the lease area are two seasonal camps and two temporary met towers. The camp owners have leases with the underlying landowner, and have agreed to move their camp locations outside of the project area. The existing camps will be removed. Both existing and new temporary met towers within the project area will be removed within one year of turbine construction.

## **Description of Project Construction**

The site construction efforts will require the fueling of heavy equipment located on the site. Equipment used on the site includes Front End Loaders, Backhoes, Bull Dozers, Heavy-Lift Cranes, Rock-crushers, Pick-up trucks with portable fuel tanks, and excavators and dump trucks as needed to perform site work and hauling.

**Personnel Training Requirements:**

Prior to construction, the contractor will instruct construction personnel on the operation and maintenance of construction equipment to prevent the accidental discharge or spill of fuel, oil, and lubricants. Personnel will also be made aware of the pollution control laws, rules, and regulations applicable to their work. During construction, spill prevention refresher briefings with the construction crew will be conducted monthly. These briefings will highlight the following:

- Precautionary measures to prevent spills;
- Potential sources of spills, such as equipment failure or malfunction;
- Standard operating procedures in case of a spill, including applicable notification requirements;
- Equipment, materials and supplies available for clean-up of a spill; and
- A list of known spill events.

Instruction and phone number shall be publicized and posted at the office regarding the report of a spill to the US Environmental Protection Agency (EPA) and the Maine Department of Environmental Protection (MDEP).

**Storage and Handling Requirements**

Contractors/subcontractors will store only the minimal amount of material (at each work site) necessary to complete the work.

1. *Handling of Pesticides:*

Handling and application of pesticides and herbicides shall only be in accordance with regulations under the Maine Pesticide Control Act of 1975, as amended, Title 7 M.R.S.A., Section 601.

2. *Handling of Petroleum Products:*

Petroleum products and other hazardous materials will not be stored or transferred, including fueling of vehicles and equipment, within 100 feet of waterbodies, wetlands, rare plant or unique natural community locations, and within at least 200 feet from water supply wells. Refueling will occur only at designated refueling sites. Overnight parking of equipment will not occur within 100 feet of waterbodies, wetlands, rare plant or unique natural community locations, and within at least 200 feet from water supply wells. Petroleum products will be stored in Maine Department of Transportation approved containers or approved tanks in areas not considered to be environmentally sensitive. Containers will be kept closed unless material is being transferred. Contractors/subcontractors will ensure that all transferring operations are monitored and not left unattended. Containers will not be stored on the ground, but will be stored in cabinets or on a firm working surface such as a portable trailer bed or other secure decking. If at any time a contractor/subcontractor needs to store oil including, but not limited to, fuel oil, petroleum products, sludge, and oil refuse in excess of an aggregate amount of 1,320 gallons (excluding 55-gallon or less containers) that is located near a pathway to navigable waters, the federal requirements for oil pollution prevention (40 CFR Part 112) must be met. Contractor/Subcontractor Spill Prevention Control and Countermeasure plans must be approved by a licensed, professional engineer, and a copy must be sent to Blue Sky East, LLC no later than one week prior to the commencement of the oil storage activities.

3. *Handling of Flammable and Combustible Materials:*

Storage and handling of flammable and combustible liquids, including gasoline and diesel fuel, will be in accordance with rules developed under Title 25 M.R.S.A., Section 2441 (Fire Prevention and Fire Protection), as amended (See also Code of Maine Rules 16-219 Chapter 317). These regulations include, but are not limited to, bonding and grounding during transfer operations, fire protection requirements, storage quantity limitations, and spacing and location requirements. Gasoline and fuel storage tanks with greater than a 25-gallon capacity must have secondary containment constructed of an impervious material and be capable of holding 110 percent of tank capacity. Handling and disposal of hazardous wastes will be in accordance with MDEP Hazardous Waste Management rules (06-096 Chapters 850 through 857) developed pursuant to

Title 38 M.R.S.A., Section 1301 et. seq., and U. S. Environmental Protection Agency regulations (40 CFR 260 through 272). Handling and disposal of waste oil will be in accordance with MDEP Waste Oil Management Rules (06-096 Chapter 860) and U. S. Environmental Protection Agency regulations (40 CFR 279).

### **Spill Reporting Requirements**

Spill reporting requirements are the responsibility of the contractor/subcontractor. As required by Title 38 M.R.S.A., Section 543 and MDEP regulations (06-096 Chapters 600 4.B and 800 4.1), spills of oil or hazardous materials in any amount and under any circumstances must be reported to the MDEP within two hours from the time the spill was discovered at **1-800-482-0777**.

As required by the federal Clean Water Act (40 CFR Part 110.4), a discharge of oil "which causes a sheen upon the surface of the water or adjoining shore line or oily sludge deposits beneath the surface of the water" must be reported within 24 hours to the National Response Center at **1-800-424-8802**.

The need to report spills to the National Response Center of hazardous materials other than oil will be determined by the contractor/subcontractor by consulting the Comprehensive Environmental Response, Compensation, and Liability Act list of hazardous substances and reportable quantities (40 CFR Table 302.4). Any spills that involve a reportable quantity of any hazardous substance must be reported to the National Response Center by the contractor/subcontractor. The contractor/subcontractor must also report all spills immediately to the Blue Sky East, LLC, the Project and/or Construction Manager, and Local emergency response officials.

### **Spill Cleanup Requirements**

It is the contractor's/subcontractor's responsibility to ensure and oversee immediate and complete cleanup of all spills involving oil or hazardous materials in accordance with state and federal requirements. The contractor/subcontractor is also responsible for all health and safety issues related to the cleanup of oil or hazardous materials. The contractor/subcontractor is also responsible for expediting the appropriate disposal of spill debris waste and restoring the site to its original condition. If the spill cannot be safely handled by personnel on site, the contractor will immediately arrange for a licensed spill response contractor to contain, clean up, and perform required sampling and disposal of spilled materials and debris and comply with applicable reporting requirements.

### **Special Instructions**

1. THIS PLAN WILL BE KEPT IN ALL JOB SITE TRAILERS, STORAGE TRAILERS, AND TRUCKS.
2. THIS PLAN IS FOR THE CONSTRUCTION OF THE BULL HILL WIND PROJECT.
3. THIS PLAN MAY BE AMENDED BY THE BALANCE OF PLANT CONTRACTOR PRIOR TO CONSTRUCTION AS LONG AS IT CONFORMS TO Title 38, Å§1318-C: SPILL PREVENTION CONTROL AND CLEAN-UP PLAN.

EXHIBIT E



## Memorandum

TO: DAVID FOWLER, FIRST WIND ENERGY, LLC  
FROM: Michael N. Young, PE  
DATE: April 12, 2011  
SUBJECT: Bull Hill Decommissioning Budget

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Sewall was requested to develop this Decommissioning Budget for the 19 wind turbine generator (WTG) Bull Hill wind project located in Washington County, Maine. The budget represents an opinion of probable cost (OPC), in today's dollars, for decommissioning based on the assumption that the WTGs, towers, interconnection facilities and other project components will be disassembled and disposed following completion of use of the wind turbines. The budget is also built on the assumption that the cost of decommissioning will be fully or partially offset by the salvage value of the towers and turbine components.

Based on information provided in the Decommissioning Plan submitted to the Land Use Regulation Commission, the O&M Maintenance Building will be turned over to the land owner and the Substation will be transferred to Bangor Hydro Electric. These components have therefore not been included in the discussion or calculations herein.

### INFORMATION SOURCES FOR THIS REVIEW

This review is based on the civil and electrical site plans and quantity information provided by First Wind, discussions with contractors familiar with this type of construction and our own experience with wind projects. Wage rates used in these estimates are based on the State of Maine Department of Labor, Bureau of Labor Standards; 2011 Fair Minimum Wage Rates, Heavy and Bridge; Washington County.

### DECOMMISSIONING SCOPE

The decommissioning process reflected in this OPC is based on the Decommissioning Plan submitted by First Wind to the Maine Land Use Regulation Commission, which includes Section 29 Decommissioning Plan and Exhibit 20, pages 1 through 3.

In summary, the decommissioning and restoration process in the Plan consists of the following steps:

- Disassembly and removal of above-ground structures
- Removal of below-ground structures to a depth of 24 inches
- Re-grading and seeding

Above-ground structures include the turbines, transformers, overhead collection or transmission lines and the meteorological tower. Below-ground structures include turbine and collection system conduit and cable; fiber optic facilities; and drainage control structures (e.g., culverts) as necessary to restore turbine sites. Following removal of all above- and below-ground structures to 24 inches below grade, the individual disturbed areas will be re-graded to be consistent with surrounding areas and reseeded to promote re-vegetation.

### DECOMMISSIONING BUDGET

The decommissioning process has been divided into four (4) general work items to match the chart in the Decommissioning Plan. Quantities and unit prices for these individual work items are presented and discussed in detail in the following paragraphs.

1. Project Management (contractor costs, equipment, etc.)
2. Site Work/Civil (site reclamation)
3. Wind Turbine Foundations
4. Wind Turbine Generators and MET towers

#### **1. Project Management**

- Mobilization.
  - Mobilization and demobilization to setup and breakdown the crane and assist crane is estimated to cost a flat fee of \$95,000 per one-way trip, for a total of \$190,000.
  - In addition, it is estimated that the cranes will be re-mobilized an additional three (3) times at an estimated cost of \$30,000 per move to reach all of the turbine sites for a total of \$90,000.
  - Mobilization and demobilization of ancillary equipment (i.e. bull dozers, backhoes, etc.) is estimated to be \$50,000.

Total estimate for mobilization is \$330,000.

- Project Oversight. Oversight of the decommissioning is estimated at \$125,000.
- Incidentals. A budget of \$100,000 (approximately 5% of the decommissioning costs) is recommended for project incidentals.
- Contingency. A contingency of \$200,000 (approximately 10% of the decommissioning costs) is recommended to cover unknowns.

The total opinion of probable costs for **Project Management is \$755,000.**

#### **2. Site Work/Civil (Site Reclamation)**

- Re-grading of turbine sites.
  - The decommissioning plan includes restoring each of the turbine sites. We are assuming that all excavated areas will be brought up to grade and sloped to drain with suitable fill material generated from the re-grading of the turbine site or from off-site sources. Based on an approximate 12,000 SF (12 MSF) disturbed area at each turbine site, the estimated cost per site for additional fill, topsoil or other organic matter to support growth, seed, and mulch is \$330/MSF for a total of about \$4,000, or \$76,000 for all 19 sites.

- This re-grading and restoration work is estimated to take a dozer and operator approximately eight (8) hours to complete at each turbine site at a labor and equipment rate of \$200 per hour. For all 19 turbine sites, re-grading is approximately \$31,000.

Total estimate for re-grading turbine sites is \$107,000.

- Road Maintenance. Dust control, road maintenance, and post construction road repairs is difficult to estimate. A budget of \$120,000 (approximately 5% of the \$2.2 million estimated for road construction) is recommended to address these items.

The total opinion of probable costs for **Site Work/Civil** is **\$227,000**.

### 3. Wind Turbine Foundations

- Removal of WTG foundation to 2 FT below grade. Removal of the turbine foundations will likely require a hydraulic excavator equipped with a hydraulic ram (hoe-ram), an additional excavator with bucket for loading, and various dozers and loaders. The total labor and equipment cost is estimated to be \$6,000 per site for a total of \$114,000 for all 19 sites.
- Transportation of rubble and disposal. Concrete demolition rubble generated at each turbine site is estimated to be approximately 60 cubic yards (based on a removal depth of 2 feet below grade). As the steel rebar will likely be separated from the concrete debris, the rubble essentially becomes an inert material. Therefore, we have assumed that the concrete rubble generated will not be transported offsite but be used onsite as fill at toes of slopes, for road base or topping material, or at other locations in need of fill as desired by the property owner. Costs to transport the foundation rubble within the project boundaries, in comparison to other decommissioning costs, are assumed to be negligible. However, any material not used on site will be transported to offsite disposal. Costs to transport the foundation rubble to disposal are based on an estimated requirement of six (6) dump truck trips for each turbine site. Total material, labor and equipment costs for each dump truck trip are estimated to be \$400. At six (6) trips per site and 19 sites, our opinion of probable cost for transporting foundation rubble to disposal is approximately \$46,000.

The total opinion of probable costs for removal of **WTG Foundation** is **\$160,000**.

### 4. Wind Turbine Generators and MET towers

- Disassembly of turbine generators.
  - Disassembly costs for the WTGs are based on the assumption that it will take a 5-man crew 20 hours to disassemble each tower and turbine, which is roughly equivalent to half the labor effort required for tower and turbine assembly. For all 19 turbines, this is equivalent to 1,900 man-hours. At a rate of \$25/man-hour, this is equivalent to about \$48,000 of labor effort.
  - The two crane costs are estimated at \$30,000/week. Based on an assumption that the cranes can disassemble two (2) turbines per week, the crane rental is estimated to be 10 weeks. Adding three (3) additional weeks for wind day delays yields \$390,000 for the crane rental.

- Additionally, once the towers and turbines are on the ground, they will need to be cut up into manageable sized pieces in preparation for transportation to scrap, recycle, or disposal facilities. We are assuming it will take a 5-man crew 20 hours to do this work per turbine at a rate of \$30/man hour for each WTG. For all 19 WTGs, this is equal to about \$57,000.

The total estimate for WTG disassembly is \$495,000

- Transportation of turbine components to disposal/reclamation site. Cost to transport the tower and turbine components to facilities for scrap, recycling or disposal are based on a estimated requirement of ten (10) transport vehicles per turbine site (note: transport of new turbine and tower components to a site requires 12 to 14 transport vehicles). Total labor and equipment costs for each transport vehicle trip are estimated to be \$1,200. At ten (10) vehicle trips per turbine and 19 turbine sites, our opinion of probable cost for trucking turbine and tower components to disposal/reclamation is \$228,000.
- MET Tower disassembly/removal.
  - Disassembly costs for the MET towers are based on the assumption that it will take a 5-man crew 16 hours to disassemble each MET tower. For all three (3) MET towers, this is equivalent to 240 man-hours. At a rate of \$25/man-hour, this is equivalent to \$6,000 of labor effort.
  - Additionally, equipment rental is estimated at approximately \$200 per hour for 16 hours to assist with the disassembly, partially remove the foundations, and reclaim the site. For all three (3) MET towers, this is approximately \$10,000.

The total estimate for MET tower disassembly/removal is \$16,000

- Transportation of MET tower components to disposal/reclamation site.
  - Cost to transport the MET tower components to facilities for scrap, recycling or disposal are based on an estimated requirement of one (1) truck trip for each MET tower. Total labor and equipment costs for each truck trip are estimated to be \$1,000. At one (1) truck trip per each of the three (3) MET towers, our opinion of probable cost for trucking MET tower components to disposal/reclamation is \$3,000.
  - We have assumed that the concrete rubble generated from the foundations (while separating rebar as necessary) will not be transported offsite but be used onsite as fill at toes of slopes, for road base or topping material, or at other locations in need of fill as desired by the property owner. However, any material not used on site will be transported to offsite disposal. Costs to transport the foundation rubble to disposal are based on six (6) cubic yards of rubble per MET tower site totaling 18 cubic yards for all three (3) MET towers. Estimating two (2) dump truck trips and a total material, labor and equipment costs for each dump truck trip estimated at \$400, our opinion of probable cost for transporting foundation rubble to disposal is approximately \$1,000.

The total estimate for MET tower disposal is \$4,000

The total opinion of probable costs for WTGs and MET System removal is \$743,000.

**DISASSEMBLY & REMOVAL SUMMARY**

The total opinion of probable disassembly and removal costs from summing the four items above is **\$1,885,000.**

**SCRAP VALUE**

The presumed salvage value is based on the following conservative estimates:

- **Presumed scrap value of WTGs.** In estimating the scrap value of the WTGs, the following component weight estimates were used:

Base:	127,000 lb	Hub:	55,000 lb
Lower Mid:	139,000 lb	Gear Box:	98,000 lb
Upper Mid:	118,000 lb	Machine Base Assembly:	68,000 lb
Top:	92,000 lb	Generator:	4,000 lb

The total estimated metal weight for each WTG is 701,000 lb or 350.5 tons. The current price for #1 steel scrap at a Bangor, Maine area metal recycling center is \$270/ton for #1 and \$200/ton for #2 steel. Using an average of \$235/ton this comes to a potential scrap value of about \$82,000 per WTG or a total of \$1,558,000 for all 19. No scrap value was assumed for the blades or nacelle shell.

Total opinion of **presumed scrap value of WTGs is \$1,558,000.**

- **Presumed scrap value of the MET towers.** Based on a MET tower component weight of 6,000 lb and an average price for steel scrap at \$235/ton, the potential scrap value of the three (3) MET towers is about \$2,000.

Total opinion of **presumed scrap value of MET towers is \$2,000.**

- **Presumed scrap value of the internal transformers.**

The cost of an internal transformer is assumed to be 85% of the cost of an equivalent external pad mounted transformer. Based on an estimated cost of \$48,000 for external transformers, this equates to about \$40,000. Salvage value is estimated at 10% of the original transformer cost, which gives a salvage value of \$4,000 each and \$76,000 for all 19 transformers.

Total opinion of **presumed scrap value of the internal transformers is \$76,000.**

- **Presumed scrap value of collector system.**

The collector system is a direct burial setup and is uneconomical to scrap. Wiring within two feet of the surface will be removed as an incidental part of the decommissioning as needed.

**SCRAP VALUE SUMMARY**

The total opinion of probable scrap/salvage value for the project is **\$1,636,000.**

**DECOMMISSIONING SUMMARY**

- The total opinion of probable disassembly and removal costs is \$1,885,000.
- The total opinion of probable scrap/salvage value for the project is \$1,636,000.

**The net estimated opinion of probable cost for the decommissioning is \$249,000.**

Should you have any questions regarding this opinion of probable cost, please do not hesitate to contact me at (207) 827-4456 or [youm@jws.com](mailto:youm@jws.com).

End of Memo

74490E/Bull Hill Const./Bull Hill Decom.04.12.11

EXHIBIT F

FOUNDERS

George F. Eaton (1892-1956)  
George F. Peabody (1912-1999)  
Merrill B. Bradford (Retired 1990)  
Arnold L. Veague (1915-2003)

Eaton  
ATTORNEYS  
AT LAW  
Peabody

80 Exchange Street, P.O. Box 1210  
Bangor, Maine 04402-1210  
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April 12, 2011

Calvin E. True  
Bernard J. Kubetz  
Daniel G. McKay  
Glen L. Porter  
John F. Loyd, Jr.  
Michael B. Trainor  
William B. Devoe  
Karen A. Huber  
P. Andrew Hamilton  
Judy A.S. Metcalf  
Timothy C. Woodcock  
Jonathan B. Huntington  
Thad B. Zmistowski  
William Y. Ferdinand, Jr.  
Nathaniel S. Putnam  
David C. Pierson  
David M. Austin  
Matthew S. Raynes  
Heather L. Parent  
Matthew C. Worthen  
Noreen A. Patient  
John R. Canders  
Dale L. Worthen  
John A. Cunningham  
Erik M. Stumpf  
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Sarah S. Zmistowski  
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Christopher E. Goodson  
Nathan J. Martell  
Sarah E. Newell  
Sarah L. Reinhart  
Mark D. Beaumont  
Jeffrey W. Spaulding  
Ryan P. Dumais  
Jason C. Barrett  
Rodney A. Lake  
Jonathan A. Pottle

Gwen Hilton, Chair  
Maine Land Use Regulation Commission  
22 State House Station  
Augustus, ME 04333-022

Re: Blue Sky East, LLC Wind Energy Project Application # DP 4886  
Community Benefit Agreement

Dear Ms. Hilton,

At the request of counsel for Blue Sky East, LLC and First Wind, I am providing this letter to confirm the status of negotiations for a local community benefit agreement relating to the above-referenced project.

The Eaton Peabody law firm has been engaged by the Commissioners of Hancock County to represent the County's financial interests as host community with respect to the proposed Bull Hill wind energy project. The undersigned attorney has met on several occasions with the Hancock County Commissioners and has been authorized, as negotiating agent, to negotiate a community benefit agreement with Blue Sky / First Wind for this project, subject to ratification of the final agreement by the County Commissioners.

Direct financial discussions with Blue Sky / First Wind counsel will begin on Thursday, April 14<sup>th</sup> and will include a proposal by Hancock County concerning the terms of a community benefit agreement.

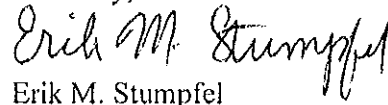
OF COUNSEL

Thomas M. Brown  
Clare Hudson Payne  
Dorriann B.W. Wagner

Offices in Augusta, Bangor,  
Brunswick and Ellsworth

\*admitted in NY & NJ only

Sincerely,

  
Erik M. Stumpf

Pc: Hancock County Commissioners  
Roxanne Jobe, EMDC



EXHIBIT G



**Stantec**

April 13, 2011

David Fowler  
First Wind, LLC  
129 Middle Street, 3<sup>rd</sup> Floor  
3rd Floor  
Portland, ME 04101

**Subject: Response to Maine Department of Inland Fisheries and Wildlife (MDIFW)  
Comments Regarding the Draft Post-Construction Monitoring Plan and Potential  
Operation Control Measures at the Bull Hill Wind Project**

Dear Mr. Fowler:

The purpose of this letter is to address comments received in email from Tom Hodgeman and Richard Bard of MDIFW on December 13, 2010 and March 10, 2011, respectively. The emails received from MDIFW provided comments regarding First Wind's Draft Post-Construction Monitoring Plan and potential operation control measures at the Bull Hill Wind Project (Bull Hill).

Draft Post-Construction Monitoring Plan at Bull Hill

As you know, all post-construction monitoring in Maine to date has been conducted at projects owned and operated by First Wind, and each year new data from these projects provide information on site-specific avian and bat impacts. First Wind has assessed sites in close coordination with MDIFW and USFWS during the pre-development phase of projects, which is carried through to the operational phase of projects. This includes the development of effective post-construction monitoring plans using information gathered during pre-development assessments, from post construction surveys conducted at operational projects in Maine and the Northeast, and through consultation with MDIFW and USFWS. Since new knowledge of avian and bat impacts becomes available after each year of study, there is a need to use that knowledge to inform their Post-Construction Monitoring Plan at Bull Hill. As with each project permitted thus far, details of the final Post-Construction Monitoring Plan at Bull Hill will likely evolve between this time and the first year after operation. First Wind has stated its commitment to monitor bird and bat impacts at Bull Hill and work with MDIFW and USFWS to refine the Post-Construction Monitoring Plan as new information becomes available, prior to implementation.

As currently described in the preliminary plan within the application for Bull Hill, mortality monitoring will likely occur in 2012 and will involve weekly searches at all 19 turbines (Table 1). During the peak period known for higher mortality at other projects (May 15 to June 5 and August 1 to September 15) daily searches will occur at 5 turbines (Table 1). Searching all turbines is a more intensive effort than typical post construction surveys which search only a sample of turbines. The standard search area will include the entire leveled lay-down area, adjacent side slopes, and adjacent road sections of the turbines. Monitoring efforts will be focused on transects roughly 4 meters apart within these areas. All carcasses found will be collected under the appropriate state and federal permits. Additional information collected to inform mortality estimates will include data from searcher efficiency trials, scavenger carcass removal trials, and search area correction. This design has been implemented at other sites in Maine and has been shown to be an effective means of assessing site-specific impacts to birds and bats and will provide a dataset that will be comparable to other projects. Based on the first year of study, if mortality results are

near the high end of the range at other studies, then First Wind has committed to discuss appropriate next steps with MDIFW and USFWS.

In the December 13, 2010 email from MDIFW, MDIFW provided recommendations regarding specific post-construction survey methods to consider including a combination of daily and weekly turbine searches, the specific turbines to be searched, the number of carcasses to be used in scavenger removal trials, the number of years to survey, and the need for additional pre-construction radar surveys.

To remain consistent with other post construction studies in the Northeast, First Wind intends to conduct continuous monitoring from April 15 to October 30 but recognizes the potential need to further refine this schedule (Table 1) to incorporate a combination of weekly and daily searches. The exact schedule will be discussed with MDIFW prior to conducting the surveys.

**Table 1.** Proposed Post-Construction Monitoring Search Schedule at the Bull Hill.

Weekly Searches	April 15 <sup>th</sup> -April 30 <sup>th</sup>	May 15 <sup>th</sup> – August 31 <sup>st</sup>	Oct 1- Oct 30
Daily searches at 5 WTGs	May 15 <sup>th</sup> – June 5 <sup>th</sup>	Aug 1 – Sept 15th	

Regarding daily searches, First Wind plans to search a subset of turbines (5 turbines) rather than rotating through all turbines to maintain the integrity of statistical analysis (Table 1). In addition, to avoid the potential for the "flooding" effect described by Smallwood et al. (2010), First Wind will scale back the number of carcasses used during scavenger removal trials. The exact number of carcasses used for these trials will be determined through consultation with MDIFW. As recommended, First Wind will conduct at least two years of mortality searches at Bull Hill, and depending on results of those years, assess the option of conducting a third year. In addition, First Wind has agreed to conduct a second year of radar surveys at Bull Hill in Spring and Fall 2011, prior to project construction.

#### Operation Control Measures at Bull Hill

We have reviewed the email from Richard Bard, the Assistant Regional Wildlife Biologist of MDIFW dated March 10, 2011, recommending operation control measures to be established at Bull Hill to minimize risk of mortality to bats. We are familiar with the two studies cited in his email that have indicated decreased turbine-caused bat fatalities with increased cut-in speeds (Arnett et al. 2009 and 2010, Baerwald et al. 2009).

As you are aware, the curtailment studies cited above have been conducted at sites with some of the highest documented bat mortality at operational wind energy projects in North America. On a per turbine basis, bat mortality rates at these projects are much higher than rates observed in Maine.

A total of 32 bat fatalities were found at 12 turbines at the Casselman Wind Project in Somerset County, Pennsylvania between July and October, 2008 (Arnett et al. 2009 and 2010). At the Summerville Wind Project in southwestern Alberta, Canada, the project at which Baerwald et al. (2009) performed their mitigation experiment, a total of 532 bats were found at 39 turbines between January 2005 and January 2006 (Brown and Hamilton 2006). At an additional Pennsylvania project, the Meyersdale Wind Project, a total of 262 bat fatalities were found at 10 turbines between late July and September, 2004 (Arnett et al. 2005).

In contrast, in post-construction mortality studies conducted in Maine, a total of 27 bat fatalities were found during two years of monitoring at 28 turbines at the Mars Hill Project (Mars Hill; Stantec 2008 and 2009); a total of 5 bat fatalities were found at 19 turbines at the Stetson I Project (Stetson; Stantec 2010a); and a total of 14 bat fatalities were found at 17 turbines at the Stetson II Project (Normandeau 2010)<sup>1</sup>. It is important to note that although the Maine studies were carried out over a longer monitoring

<sup>1</sup> The 2007 monitoring period at Mars Hill lasted from April to June and July to September, and from April to June and July to October in 2008. The 2009 monitoring period at Stetson I and 2010 monitoring period at Stetson II lasted from April to October.

period, were in similar landscapes (i.e. forested ridgelines), and included a greater number of turbine searches compared to the sites cited above, far fewer bat fatalities have been discovered and mortality rates in Maine appear to be substantially lower.

Despite the current lack of a strong statistical relationship between pre construction acoustic bat activity and post construction mortality, comparison of pre-construction acoustic bat survey results from proposed projects and projects that have since been constructed helps inform the level of risk to bats. The pre-construction acoustic bat surveys conducted at Bull Hill followed methods consistent with those conducted at other projects in Maine, including Mars Hill and Stetson. The purpose of these acoustic studies was to document overall species composition and activity rates of bats in the project area to inform predictions of potential risk to bats as a result of the project.

Stantec conducted pre-construction acoustic bat surveys at Mars Hill in 2005, at Stetson in 2006 and 2007, and at Bull Hill in 2009 and 2010. The results of these studies are presented in Table 2 below.

**Table 2.** Comparison of bat detection rates at three Maine operational facilities

Project	Year	Season	Survey Dates	# of Met Detectors	Met Detection Rate (call seq/detector night)	Reference
Mars Hill	2005	Fall	late Aug - mid Sept	2	0.8*	Woodlot Alternatives, Inc. 2006
Stetson	2006	Summer/Fall	late Jun - mid Oct	4	2.6	Woodlot Alternatives, Inc. 2007a
Stetson	2007	Spring	late Apr - mid Jun	3	2.0	Woodlot Alternatives, Inc. 2007b
Bull Hill	2009	Summer/Fall	mid Jul - early Nov	2	0.2	Stantec Consulting 2010b
Bull Hill	2010	Spring	mid Apr - mid Jul	2	0.4	Stantec Consulting 2010c

\*detection rate calculated based on 25 total calls recorded during 30 detector nights of sampling

The overall detection rates of the acoustic detectors at Bull Hill were lower than those documented at Stetson and Mars Hill. Despite surveys occurring on different years and with varying levels of survey effort, the similarly low detection rates among these sites suggests that anticipated bat mortality rates will also be similar among the sites, at the low end of the documented range compared to other operational wind projects in the Northeast. For example, post-construction acoustic bat surveys were conducted at the Stetson Wind Project in 2009, concurrent with weekly mortality surveys. The results of the surveys showed similar trends as pre-construction surveys at other projects in Maine and in New England with an overall detection rate of 0.3 call sequences per detector night at detectors deployed on the wind turbine nacelles and 28.5 call sequences per detector night at detectors deployed in trees at or below tree canopy height. When comparing detectors above tree canopy height only (i.e. nacelle detectors and met towers), bat activity was similar to other pre-construction surveys and mortality rates were low.

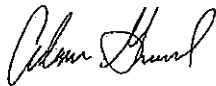
We do not believe Bull Hill presents a risk of bat mortality sufficient to warrant the implementation of increased cut-in speed as an initial mode of operation. We recommend first conducting a year-long (April to October; Year 1) mortality study rather than implementing operation control measures without knowing what baseline mortality rates will be. The Year 1 study should be similar to those required at operational wind energy projects in Maine to assess the impact of Bull Hill to bats. This type of survey will provide information necessary for assessing site-specific impacts to bats, as it will take into account site configuration (i.e., turbine locations) and weather variables known to affect bat mortality. The investigation of these variables is necessary to develop a meaningful and cost effective mitigation plan, which may include operation control measures, if bat mortality exceeds expected levels and action is necessary. For instance, if the Year 1 post-construction monitoring study documents low mortality rates, operational control measures may be neither warranted nor cost-effective. If the Year 1 post-construction monitoring study documents mortality results near the high end of the range at other studies, a second year of post-construction monitoring will be conducted to add to the first year of data and confirm any trends in mortality (i.e. periods of higher mortality) observed during the first year which can help inform the timing of operation control measures if necessary.

The results of nearly every pre-construction acoustic bat survey conducted at proposed wind energy projects have documented that bat activity is greatest during July, August, and early September and on nights with low wind speeds (i.e., at or below 5 meters per second) and warm temperatures. This period of increased bat activity also corresponds with the time period that the majority of bat fatalities have been documented at other operational wind energy projects. Similar patterns of bat activity and mortality are expected at Bull Hill, as these patterns have been observed across a wide range of projects with differing levels of mortality. In addition to documenting mortality levels, the mortality study will document timing of bat mortality, allowing operational adjustments, should they be deemed necessary, to be focused on the periods with highest risk to bats, increasing their efficiency and effectiveness. We anticipate that levels of mortality at Bull Hill will be low, within the range of other operational wind energy projects in the Northeast.

Finally, as part of the permitting process for the Sheffield Wind Project in Sheffield, Vermont, First Wind entered into an agreement with the Vermont Agency of Natural Resources to conduct a post-construction mortality study once the project becomes operational. This study is designed to test operation control measures that include curtailment of turbines at different cut-in speeds. This study will be conducted by Bat Conservation International, the same organization that conducted the curtailment study at the Casselman Wind Project cited above. The Sheffield Project is similarly-sized and is at a similar latitude as Bull Hill and will be the first project in New England to study the effects of different turbine cut in speeds on bat mortality. The Sheffield study may provide an opportunity to better understand the applicability of operational control measures at wind energy projects in New England.

Please feel free to contact me if you have any questions.

Respectfully,  
**STANTEC CONSULTING**



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