

EVERGREEN WIND POWER III, LLC  
(Rollins Wind Project L-24402-24-A-N, L-24402-TH-B-N, L-24402-IW-C-N)

Petition to Revoke or Suspend

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September 15, 2010

Chair Susan Lessard  
Board of Environmental Protection  
17 State House Station  
Augusta, ME 04333-0017

RE: EVERGREEN WIND POWER III, LLC  
Lincoln, Lee, Winn, Burlington, Mattawamkeag, Penobscot County  
ROLLINS WIND PROJECT  
L-24402-24-A-N  
L-24402-TH-B-N  
L-24402-IW-C-N

Dear Chair Lessard:

Enclosed please find a Petition to Revoke or Suspend License, in the matter of Evergreen Wind III, LLC, permitting construction of the Rollins Wind Farm project.

Sincerely,

*Lynne Williams*

Lynne Williams, Esq.

PETITION FOR REVOCATION OR TEMPORARY SUSPENSION OF LICENSE

IN THE MATTER OF

EVERGREEN WIND POWER III, LLC  
Lincoln, Lee, Winn, Burlington, Mattawamkeag, Penobscot County  
ROLLINS WIND PROJECT  
L-24402-24-A-N  
L-24402-TH-B-N  
L-24402-IW-C-N

The undersigned represents the following, all of whom are landowners in the town of Lincoln, Maine or other towns impacted by the Rollins Wind Power project: Larry G. Arthurs, George Birmingham, Bradbury Blake (landowner in Lee), Kristi Birmingham, Mike DiCenso, Harry Epp, Roderick Forrey, Joanne Hinkelman, Kathi Hinkelman-Emery, Gordon Johnson, Rick Kaul, Dennis Mahar, Karl McGillvray, Marge Mitchell, Mary Beth Nolette, Don Smith, Dr. Gary Steinberg,

Petitioners respectfully request that the Board of Environmental Protection revoke, or at least temporarily suspend, the license granted to Evergreen Wind Power III, LLC, by the Department of Environmental Protection on April 21, 2009. Information gathered subsequent to the grant of the license strongly suggests that if built, the Rollins Wind Farm project will be substantially out of compliance with the state noise regulations. Evergreen plans to utilize 40 GE 1.5 MW turbines for the Rollins Wind Farm project, the same turbines used in the Beaver Ridge wind project in Freedom, Maine and the Fox Island Cooperative wind farm, in Vinalhaven, Maine.

A recent analysis by acoustic engineer Robert Rand regarding turbine noise in Freedom found that the noise produced by those turbines is substantially out of compliance with the state's 45 DBA, even at more than one mile from the turbines. The closest home to the Rollins Ridge turbines is just 2000 feet from a turbine. In the first publication of his findings, co-authored with acoustics engineer Stephen Ambrose, Rand and Ambrose wrote that “[c]urrently there is no effective, reliable noise mitigation for wind turbines of this size other than shutdown.” Mr. Rand is also on record, when asked in a public forum in May 2010, about the Rollins Project, as stating that due to the way sound is

reflected from water surfaces and atmospheric conditions, hundreds of seasonal residents and year round residents on the Lincoln lakes will be adversely affected by noise.

Most recently, the Department's own acoustical consultant, Warren Brown, concluded that the turbines operated by the Fox Island Cooperative, on Vinalhaven, are also out of compliance with the state noise regulations. In a letter dated September 9, 2010 to the Maine DEP, Mr. Brown writes, "... there exists a significant body of consistent meteorological and sound data indicating sound levels greater than applicable limits. Substantial changes are recommended for FIW nighttime operations, limiting (WTG) sound levels at ML-A (state approved site) to 45 dBA."

During our appeal to the BEP in 2009, Friends of Lincoln Lakes argued that the model used by the applicant was inadequate to address issues surrounding the unique noise produced by large wind turbines. We also drew the Board's attention to doubts about the modeling that were expressed by Mr. Brown. The Board discounted their consultant's opinion about the modeling, was very clear that the applicant's noise modeling was adequate, and found no basis for revoking the license granted by the DEP.

Now, however, with the new information cited above, the Board does not even have to address modeling issues or whether Maine's noise regulations are adequate. Under the current noise regulations, two wind farms using exactly the same turbines that will be used in the Rollins Wind Farm project have been found by credible evaluators to be out of compliance with Maine's noise regulations. And while both the Beaver Ridge project in Freedom and the Fox Islands Cooperative project consist of three turbines, the Rollins Wind Farm project will be almost fifteen times as large, consisting of 40 turbines.

Chapter 2 of the Department of Environmental Protection rules specifically includes a provision that any person may submit a petition to the BEP to revoke, modify or suspend a license, if certain criteria exist. Given the recent findings regarding noise production by the same make and model of turbines that will be used at Rollins, we believe there is a credible basis for the BEP to revoke or

suspend Evergreen's license under a number of criteria, including that the licensee failed to fully disclose all relevant facts, the licensed activity presents a threat to human health, and/or there has been a change in conditions or circumstances that requires revocation, suspension or a temporary or permanent modification of the terms of the license. If the Board finds that even one of these criteria exists, the Board may modify the license in whole or in part, issue an order prescribing necessary corrective action, or refer the license to District Court for revocation or suspension.

At a hearing before the BEP, we will present credible evidence that the Rollins Ridge project, if built, will be substantially out of compliance with the Maine noise regulations and, as such, should not have been licensed. We will present data gathered by acoustics engineer Robert Rand, who did the acoustical work at the Beaver Ridge project in Freedom. Such data has already been submitted to the BEP. We will also present data by the DEP's own acoustics consultant, Warren Brown, that projects – significantly smaller projects – utilizing the same turbines as proposed for the Rollins Wind Farm project produce noise that violates the state noise regulations. This was not evidence that was available at our hearing before the BEP last year, but it is relevant information that we believe will provide a basis for a BEP revocation or suspension of the Rollins Ridge license.

The Board can no longer consider its hands to be tied by the current noise regulations. We are hereby asking that the BEP hold a hearing in order to take testimony regarding the noise levels to be expected from the Rollins Wind Farm project and subsequently revoke, or temporarily suspend, the license granted by the DEP to Evergreen Wind III, LLC to develop the Rollins Wind Farm project.

Respectfully submitted,

Lynne Williams