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SOLAR • GEOTHERMAL • WIND POWER • NET-ZERO GREEN BUILDINGS

December 14, 2009

Martha's Vineyard Commission
Oak Bluffs, Massachusetts

Re: Island Land Based Wind Turbines DCPC and Allen and Northern Pines Farms

Dear Commissioners,

Thank you for the opportunity during last week's hearing to describe the history, the current status, and the ultimate goals of the wind turbine projects on Allen Farm and Northern Pines Farm.

We greatly respect the effort the MVC has devoted to crafting regulations to preserve the character of the island – working to find the delicate balance between retaining the rural character of the Vineyard, as embodied in farms and farmers, and promoting the necessary change in our energy use and way of life.

In pursuit of preserving that rural character, we can think of no better way to accomplish this than to encourage and support Island farms in their agricultural endeavors. As we have discussed in detail at last week's hearing, the Allen Farm and Northern Pines Farm are well along in a very important agricultural effort – the erection of wind turbines on their farms to serve their on-site loads and those of other Island farms.

What We Seek – Permission to Proceed to the Building Permit Stage for Allen Farm and Northern Pines Farm

As requested during our appearance at last week's hearing, we would like the MVC to allow the Allen Farm and Northern Pines Farm wind turbine projects to proceed to the building permit stage. Our hope is that the MVC can reach a decision on this soon as we know that the building permit process itself could take several months as will the MTC and USDA grant application process.

Grant Funding Available to Allen Farm and Northern Pines Farm in 2010: Mass Tech Collaborative and USDA

The Mass. Technology Collaborative (MTC) has encouraged us to apply in the Spring and/or Summer of 2010 for grant funding. We seek to apply for their wind turbine design and construction grants under the new Commonwealth Wind division (the LORI project has been rolled into this new program). Our goal is to apply individually for the two farms for the grants – if successful, each farm would receive \$380,000 in MTC grant funds.

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We also seek to apply individually for grants under the USDA REAP (Renewable Energy for America Program) for their farm based renewable energy construction fund. Our goal is to apply in the Spring/Summer of 2010 for funding of \$500,000 per farm.

The total grants available from both of these programs would be **\$880,000 per farm** for construction and design funding of their wind turbine installation.

Grant Requirements That Would Be Affected by the Moratorium on Allen Farm and Northern Pines Farm Wind Projects:

Building permit issues with the MTC \$380,000 grant:

Possession of a building permit: As we discussed at the hearing on Thursday, Dec 10th at the MVC, the MTC has informally told us that having a building permit greatly increases the chance of receiving a grant.

Hurdles to receiving or applying for a building permit: Part of the MTC application involves describing permitting hurdles that may arise in applying for a building permit. Certainly applying for the MTC grant during a moratorium on building permits and indicating that we are unsure of how long the moratorium may extend on applying for building permits will put our grant applications for both Allen Farm and Northern Pines Farm out of the running.

Requirement of possession of a building permit: One of the critical milestones necessary to receive grant funding is the ability to secure building permits within 6 months of grant approval – if we applied under the moratorium the MTC would recognize that our projects could not possibly guarantee the securing of a building permit within 6 months. The uncertainty in this moratorium situation will therefore effectively eliminate us from approval of our grant application.

Building permit issues with the USDA REAP \$500,000 grant:

Possession of a building permit: The REAP application states that “each applicant must have, or obtain, the legal authority necessary to carry out the purpose of the grant.” As for the MTC grant process described above, applying for the REAP grant during a moratorium on building permits and indicating that we are unsure of how long the moratorium may extend will put our grant applications for both Allen Farm and Northern Pines Farm out of the running.

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Existing Legal Structure in Place for Building Permits for Allen Farm and Northern Pines Farm Wind Projects

Farm law clearly creates a well described regulatory structure to safeguard the rights of the farmers and towns. As our wind turbine projects are clearly within the unambiguous definition of “farm structure” they will fall within the established case history of town/farm building permit applications. We believe that a no point will these farm turbine projects be unregulated; in the interim period of the moratorium they will be under farm law and after regulations are approved they will be under the MVC approved regulations.

Our permitting experience in Tisbury (seeking a building permit for the MET tower for Northern Pines Farm) resulted in the agreement by all sides that the town has a right to reasonable regulation and the farm has right to protection of wind turbines as farm structures. This balance of interests helps farms to successfully erect farm structures within the definition of agricultural practice.

Losses to the Allen Farm and the Northern Pines Farm if They Cannot Proceed to the Building Permit Stage

The Allen Farm and Northern Pines Farm will be directly affected if the MVC does not allow their projects to move forward to the building permit application stage.

Inability to apply for or win construction grants

Without a building permit in hand or at least no moratorium preventing the application for a building permit, these two farms cannot apply for funding from the MTC and USDA in 2010 possibly **totally \$880,000 for each farm**.

Possible change/reduction in future grants

Without having a building permit or at least no moratorium preventing the application for a building permit, these two farms could be forced to apply for construction funding in 2011 **with a possible reduction in funding**. As with all grants, we do not know what future grant cycles may bring in terms of funding but already the MTC grants have been reduced by 5% and from per turbine to per project.

Increased competition/higher standards for grant funding

Without having a building permit or at least no moratorium preventing the application for a building permit, these two farms could be forced to apply for construction funding in 2011 **and face increased competition and/or higher standards in grant funding**. The MTC is progressively increasing the applicant requirements and making the grants more competitive. Now that net metering is legal and more and more projects are applying for grant funding that site turbines remotely from the loads that they serve, the possibility of securing grant funding in the future will probably be reduced.

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Our Plea for Support of the Allen Farm and Northern Pines Farm Wind Projects

The irony is that the Allen Farm and Northern Pines Farm projects have been underway for several years – if we had progressed to the building permit phase before November they would not have been halted by the moratorium. They would have proceeded to the building permit stage as a prelude to applying for construction grants from the MTC and USDA.

To force the two farms to potentially miss grant monies amounting to \$880,000 per farm and lose valuable momentum seems to be at odds with the essential Island Plan goals of supporting Island agricultural vitality and encouraging a self-sustainable Vineyard. Our perception is that both of these projects fall under well-defined farm law – with clear explanations of what a farm is, what a farm structure is, and how a wind turbine can be a farm structure.

We do not know the legal mechanism necessary for the MVC to make this happen for the Allen Farm and the Northern Pines Farm. Perhaps an exclusion or exemption based on agricultural wind turbine projects, that are land-based, that were already substantially developed by the start date of the moratorium.

We appreciate your time and attention to our situation and support your efforts to preserve and promote the agricultural interests on the Vineyard.

Sincerely,

Mitch Posin, Clarissa Allen, Nathaniel Allen-Posin
Allen Farm, Chilmark

John Packer, Janet Packer, Nathaniel, David, and Charlotte Packer
Northern Pines Farm, Tisbury

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