

Note: I sincerely hope this will be read in its entirety, but if time prohibits that, please read the first page and 1<sup>st</sup> paragraph of 2<sup>nd</sup> page to dashed line. I prefer this to any editing. Thank you.

Letter to the MVC to be read at the October 4<sup>th</sup> meeting,

I regret that I have not finished reading the full Draft of the Wind Energy Plan, but I would like to draw serious attention to a few sections which I have read and find disturbing. First, I would like to point out that I speak from experience living near the Allen Farm wind turbine, which is small in respect to the turbines envisioned in this Draft. I have spent the summer in PA instead of on our once-lovely Chilmark property because the motion of the Allen Farm turbine blades, constantly in our sight, has driven us away. This is a negative affect upon personal health, use and enjoyment of property that this Draft does not even mention. The fact that we cannot spend a week, a month, or years of upcoming retirement in our Chilmark home is a "taking" of property and well-being which still needs to be addressed. If your attention gets no further than this paragraph, please take to heart that this Draft of the Wind Energy Plan should not move forward one inch without clear and strong protections for neighbors' health and for the use, enjoyment, and value of their property.

The Draft speaks loftily about the Vineyard being a special place of beauty and acknowledges that this offers our towns an extraordinary financial base through high property values and tourism, but the report goes on to permit the destruction of these very attributes. There are no meaningful, concrete measures to "Protect people and their enjoyment of their property from potential negative consequences" - a phrase, by the way, which is applied only to sound generated from wind turbines - why not to every negative aspect of wind turbines? In every case of negative affect from a wind turbine upon neighbors, the Draft finds these detriments acceptable within some undefined framework. Honoring private property rights says that no negative affect is acceptable without agreement by the neighbors, which may require just compensation.

In this vein, I'd like to address the Overall Objective and Performance Standards of three sections of the Draft:

**Section 8.2.2** deals with property values.

[page 101, lines 43-45] **"Overall Objective:** Development of wind turbines, as with other types of land uses, should not be at the unreasonable financial detriment of other landowners."

How is it possible that the word "unreasonable" is included in the Overall Objective? How can there be any financial detriment imposed on other land owners that is not compensated? How is any detriment "reasonable"? Who decides what is reasonable or unreasonable?

**"Performance Standards** [ page 102, lines 1-3]: At this time, the Plan does not recommend any mechanisms for quantifying the potential lowered value of a surrounding property, nor mitigation to minimize the impact of such a change in land values."

The Performance Standards show a total lack of interest in the inevitable property devaluation. It doesn't even mention the aspect of "use and enjoyment" of one's property; and it not only includes no standards or precautions for maintaining the integrity of neighbors' property values, it shows no interest in mitigating or minimizing the negative impact on land values! If the 5th Amendment says, "... nor shall private property be taken for public use, without just compensation", then surely private property cannot be "taken" for private use without just compensation (and agreement between the parties).

This language confirms to the wind industry just what they already presume: that the towns and MVC will not enter into quantifying any property devaluation - which dismisses "financial detriment" pretty well - nor fight on behalf of neighbors to even minimize the devaluation. This is handing our lives and property to the wind industry on a platter. If any in the MVC argues that my point is extreme, then please reflect that so far the Vineyard finds it quite "reasonable" that my husband and I have been harassed out of the home he built in 1976, as we can no longer have any peace even inside our house. We have to maintain an unusable house and property during 20 years of turbine domination. Do you have any idea of the impact on our well being, our lives, our "financial detriment" that this turbine has caused? How does the language of the Draft do anything but encourage this outcome, much less protect against it? I challenge you to find a solution to restoring our home and well-being; then you will know what language to put in 8.2.2. For a start, delete "unreasonable" from line 45, page 101.

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Before I cite similar complaints with 6.3.2 and 6.2.2, I would like to point out a serious omission in your consideration of wind turbine impact. You do not even mention the detrimental effect of the visual motion of the turbine blades. It is especially this motion which has driven us out of our home and property. I have submitted a longer description of our experience for you to read, so I will simply state that this motion is a constant attention-getting demand on our senses. It feels menacing and is draining. Of course it disrupts our enjoyment outside, but we cannot escape the motion even inside our house. We sit on our sofa, walk in the front hall, eat a meal or work in the kitchen under an ever-present spinning wheel. We even get it in quadruplicate movies by the reflections in our east windows. The noise is another distressing issue, but your plan does not even address the impact that has driven us away. So, please expand your consideration of visual impacts and include reliable protections for neighbors.

**Section 6.3.2, Policies** regarding shadow flicker, page 92, also has language of questionable meaning and detrimental consequences. Under "**Overall Objectives**", why should shadow flicker be only "minimized"? Why should any turbine owner be able to put shadow flicker on the walls of a neighbor's bedroom, kitchen, living room? This is an invasion of a private home and should not be tolerated unless there is an agreement between the turbine owner and neighbor. No agreement, no shadow flicker. Additionally, what does "minimize" mean? Who decides what it means? Under "**Performance Standard**" (page 92, lines 16-19), "The applicant has the burden of proving that this effect does not have significant adverse impact on [neighbors]..." Who decides what constitutes "significant"? How can an applicant, or anyone, tell a neighbor that the pulsing light and shadows crossing his walls are not significant to him? And again, why does the language refer to "mitigation" instead of prevention?

Additionally, if the Allen Farm wind turbine, under 150 feet high, affects neighbors with shadow flicker at 1,000 ft, how is this distance sufficient protection for neighbors of a larger turbine?

Regarding turbine noise, the "**Overall Objective**" in 6.2.2, page 89, sounds great: "Protect people and their enjoyment of their property from potential negative consequences due to sound generated from wind turbines." I suspect, however, that this is totally meaningless by the time anyone gets through the seven tortured Performance Standards, which are not understandable to the above-average citizen and which align only with "sounds that may unreasonably disrupt people's enjoyment of their properties." (6.2, p. 86, line 15). "Unreasonably" is a danger, not a protection. What I do understand is your statement that a turbine's low frequency sound may "not exceed 50

dBc", but your report also says that normal conversation at one meter is 40 - 60 db. So your limit to turbine sound is like having a neighbor, one meter away, talking to you day and night?

Beyond all the dBA and dBc-weighting of sound inputs, I can tell you that, even at a distance of 1300 feet, the stress of trying to listen to our delightful Chilmark birdsong or the shuffling of rocks by the waves at Lucy Vincent Beach through the hum and rhhh-RHHH of the Allen Farm wind turbine is a serious negative consequence which constricts the enjoyment and use of our property. And for anyone to imagine that a buyer looking for peace and beauty would plunk down a million dollars or more to see and hear a wind turbine is nonsense. Would anyone pay for shadow flicker? The Vineyard is a symphony of sight and sound that can be totally ruined by wind turbines. If the use and enjoyment of private property is not fully respected and protected on Martha's Vineyard, people (and money) will go elsewhere; rents and property values will fall, and the real estate tax base will shrink substantially. Is this the future we want?

Sincerely,

Barbara Schlesinger  
Chilmark and Malvern, PA

October 3, 2012

Letter to the Editor,

When the Allen Farm 165 ft. meteorological tower was erected a couple years ago in front of our Chilmark property, I wondered what the future would be like if a wind turbine were erected. Our Vineyard history, especially the exquisite beauty and peace of our hilltop home, has been precious to us. My husband's ancestor, John Eddy, first came to the Vineyard in 1660 as a blacksmith. More recently, my husband has enjoyed the company of five generations of his family here. In that frozen winter of 1976-77, Ralph built our house; we were married here and had our first son here; we raised goats, opened a store and a construction business. Our kids had 20 years of Community Center and their summer jobs here; our eldest was married here and lived here. Looking forward, we had hoped to live here again in upcoming retirement.

As I researched wind turbines, however, I learned not only of some real problems but also of a very troubling pattern in the wind industry: that is, a *travesty of justice*. I say "travesty" because of its mockery of the basic rights of citizens, the tyranny over unwilling subjects; the "taking" of property (enjoyment, value, habitability) and of income, and the trauma that envelops so many lives - all this without acknowledgment, remedy, or compensation. This is not a "t" party I'd like to attend, but it has come to Chilmark, and into my home. I have thought back to the years I lived here, when the Vineyard fought off McDonalds and threatened to secede from Massachusetts over sharing a representative, and I have wondered how the Vineyard today has so calmly accepted the obvious wrongs of the wind juggernaut, especially when its community spirit was so extraordinary.

Last November, the Allen Farm ~150' turbine was erected, exhibiting usual turbine effects: engine and blade noises, light reflections and shadow flicker, visual impairment, property devaluation (and abandonment) and the distracting motion of blades. The turbine was placed within our only view, a south-facing view towards sun and ocean, about 1300' from us. From our hilltop, we hear its noise outside and inside our home through our lovely bird and ocean melodies. We see light reflections as it is highlighted boldly by morning/evening sun, and the motion of blades interrupting landscape, sky, and ocean. (This motion is intolerable to me as an unavoidable and constant demand on my senses, and it feels menacing. It affects the same defensive feature of the brain that fast-moving commercials play upon to get your attention.) *We cannot escape the motion of the blades even in our home* except in the back hall or northeast bedroom.

My only visit was early in June; though I had cabinets to refinish, I packed the doors and left early, harried out of my home by the 63' diameter whirlygig blades constantly moving in my vision, even inside my house through the large south windows and reflections in our east windows and bathroom. Oppressed by the machine, I cancelled all other visits and annual celebrations. (Ralph's visits since March feel the same.) I dread the thought of this being our reality for 20 years. Will I outlast the turbine to come back at age 81, or will the bigger-and-better be up then, such as the multiple 900kw, 230' turbines the MET tower was to evaluate?

Can it be acceptable to the Vineyard that our property, welfare, and future have been taken from us; that my husband and I will return to the Vineyard only to keep our house from mouldering away? And with so many farms able to profit from the same lucrative subsidies, are you ready for your neighboring turbine?

Barbara Schlesinger  
Chilmark and PA

# Letter to the Vineyard on the Realities of Wind Turbine Legislation and Zoning Bylaws,

Due to the length of this letter, Vineyard newspapers did not have the space in usual columns to print this; but wanting to share information to help others protect property and personal welfare and to present a legislative remedy to the consequences of the Allen Farm wind turbine (AFWT), I am "self-publishing" this letter. I hope to present aspects critical to understanding both the process of sanctioning wind turbines on the Vineyard and the actual legislative protections in place (albeit ignored) for neighbors. This is long, but please read and ponder this, and equip yourselves for your neighboring turbine(s) of the future.

**essential for securing permits on Martha's Vineyard.**" Thus, the wind industry had to finessé making WTs "farm structures" through MA General Law 40A/3 (which was written decades ago without any conception of large wind turbines and net metering). The reasoning is unsound and is only "personal opinion", but the constant repetition that "WTs are farm structures" and "protected by 40A/3" has people - even our town officials - believing they are. Examples of this effort follow.

Gerry Palano and Bob Ritchie, (MDAR's Renewal Energy Coordinator and General Counsel, both supporters of the AFWT) of

restrictions to limit farm structures. This last point raises **the Third Component: the legitimacy of reasonable regulation by local zoning must be totally ignored by local officials.**

Presumably, Chilmark thought its zoning regulations on windmills were "reasonable" when they enacted them. For example, Article 4:d. "The Board of Appeals shall determine that the proposed height and location of the windmill does not interfere with the rights of abutters to enjoy their property..." The Board confirmed this in a ZBA meeting on 9/11/07 when addressing the proposed location of a windmill. The minutes state: "Mr. Rossi read the bylaw aloud and explained the Zoning Board of Appeals is bound to consider the bylaw when making its decision. The bylaw clearly considers an abutter's enjoyment of their property... Town voters discussed and approved the bylaw at Town Meeting. It clearly states abutter issues must be addressed..."

The above led me to believe that the ZB would be active in determining that the location of the AFWT would not interfere with abutters' enjoyment of their property (so I did not take action during the permitting process). Not so. Why did Chilmark not feel "bound to consider" its own "reasonable" bylaws which are legitimate in 40A/3 when permitting the AFWT?

Why did Chilmark officials and the Allen Farm not embrace the state government's suggested policy, "**Massachusetts Farm Best Practices for Renewable Energy**", posted at mass.gov, which directs farms interested in WTs to:

"find out about the zoning restrictions in your area by calling the local building inspector, select board, or planning or zoning board. Additional limitations may be imposed [upon 40A/3] by neighbors or the local community, often referred to as NIMBY (Not-In-My-Back-Yard). If considering wind, it is important to work with all parties who may be affected."

This is mass.gov telling town officials that they and neighbors may "impose" additional limitations on state regulation (because 40A/3 allows it). The above directive also presumes that the Allen Farm and town officials would speak to us. On the contrary, one abutter wrote to the Town in January 2010 after the turbine permit was issued: "There had been no discussion, no meetings, no inquiry, and absolutely no regard for any of the neighbors or abutters in this process. This is about as wrong as anything that I have ever been personally involved in and I feel totally violated by this lack of process." This is the constant refrain of neighbors to WTs.

**The Fourth Component for "legitimizing" WTs as farm structures is changing the language of 40A/3.** As mentioned earlier, 40A/3 authorizes a farm structure by its "purpose", not the "use". Language makes a difference; that is why MDAR and wind supporters always change the wording to "use". They come up with "primary use" (of turbine-generated electricity) and allow a 49% sale of commercial power while still designating the turbine a "farm structure", essentially bringing into existence the Allen Farm Sheep & Wool & Power Co.

Adherence to the actual wording of 40A/3 would have prohibited the current Allen Farm turbine from being erected because the absolutely clear, often-stated "purpose" of their 50 kw turbine is to sell power (to a restaurant). Mitchell Posin has said so over and over: "We're hoping at a minimum it will produce about twice the electricity we use, so we would sell the green electricity." (Did no town officials ponder such statements which directly undermine the conclusion of the \$7,000 Tighe&Bond study Chilmark financed, upon which they based their permit for the turbine? And, even by "use" standards, selling twice the level of agricultural electricity disqualifies it as a farm structure.) A much smaller turbine would have covered the Allen Farm's agricultural electrical needs, but the "purpose" of a 50 kw turbine was to sell electricity, making

this size non-conforming to the statute according to its actual language.

Please note other ramifications of "Variations on a Theme of 40A/3" when MDAR et al untether WTs from the language of 40A/3. They come up with irrational, potentially devastating schemes like this: "Because 40A/3 allows a farm to build a stand that may include some produce from another farmer, then surely a farm could build multiple large wind turbines to produce electricity for itself and multiple other farms and/or schools." Now, making the principle of supplemental vegetables equal to erecting a power station on one farm for energy into the meter that credits other farms or schools is a fantastic violation of 40A/3. Nevertheless, \$50,000 of public money went to the Allen Farm Met tower for just that purpose (i.e., evaluating multiple 900kw, 230-foot turbines in front of my house. <http://www.mass.gov/eea/pr-pre-p2/nine-wind-energy-projects-receive-22-million.html>). Does anyone think the brakes should be put on this run-away train?

Clarissa Allen wants us to "be proud of [their turbine] and proud that Chilmark did something like this." Are we really supposed to be proud of public subsidies taken from unwilling participants for a self-professed commercial purpose of a privately owned business, the "legality" of which is based on personal opinions? Proud of "taking" the value of people's property, restricting its use, enjoyment and ability to be rented or sold? Proud of making second-class citizens on Martha's Vineyard whose rights have been stripped to serve others? Proud that my life for decades has to be lived elsewhere, deprived of my home and place of beauty and serenity, our place of history and future weddings, retirement, and grandchildren raised on the Vineyard? I find this inglorious stuff. Can it really all be swept under that rug called "Green!" to make it all okay? Chilmark abdicated its responsibility under the cry of "40A/3, Farm exemption", and the Allen Farm would have us renounce our lawful protection of "use and enjoyment" under their cry of "Green". Is this acceptable to the Vineyard? If so, how many farms could also sprout wind turbines under the same dubious cries; and what will the Vineyard look like, be like under these banners?

**So what is the conclusion of this matter? Town of Chilmark, please follow your own "reasonable" windmill bylaws:** "Any designated safety hazard or nuisance (such as excessive noise, radio and or television interference) shall be corrected within 60 days, or, failing that, dismantled within 30 days." Since the Allen Farm turbine is a health hazard and a multiple-nuisance greater than crummy tv reception (the worst that was envisioned when the bylaws were written for small-scale windmills), I hope that you will indeed investigate this situation and that the turbine will be dismantled within 90 days thereafter.

**Allen Farm, please take the turbine down. Do no harm to others.** Dismantle it, sell it, and salvage as much of our investment as possible, and we'll all have a peaceful sleep and enjoyable days. If you are not willing to take it down, you should be willing to accept the responsibility of your actions of "taking" property against the owner's will. (The town is complicit in this.) It would be very costly to compensate what I and others have lost for 20 years. So, just take it down. Let me step out of my undesired, worldwide affinity-group, that of "turbine refugees".

Not being totally naive, I will also make my appeal, just as our Founding Fathers did, to the Creator who endowed us with "certain unalienable rights" that our government was instituted to protect. I will appeal to "the Lord, who exercises kindness, justice and righteousness on earth, for in these [He delights]." May He give justice when it is not in the hearts of men to do so. (And I will probably make and wear enough "Take It Down" t-shirts to last me 20 years, if need be.)

**Barbara Schlesinger**  
Chilmark and PA



**This still photograph of the Allen Farm wind turbine, taken inside my kitchen window, does not present the powerful effect of constantly rotating blades which demand attention and have an unsettling effect on mind and view. (Photo is "sharpened" for clarity, with partial zoom.)**

By way of introduction, beyond Vineyard connections since 1660, my husband has enjoyed the company of five generations of his family on our Chilmark hilltop. In that frozen winter of 1976-77, Ralph built our house; we were married here and had our first son here; we raised goats, opened a store and a construction business. Our kids had 20 years of Community Center and their summer jobs here; our eldest was married here and lived here. Looking forward, we had hoped to live here again in upcoming retirement.

It is a sad fact, however, that I write from my home in PA. I have been harried out of our once stunningly beautiful and peaceful hilltop property by the motion of 63-ft diameter blades whirling constantly in our vision, not to mention the noise that now taints the bird-song and ocean melodies. We cannot escape this motion (except in the back hall or NE bedroom) as it fills our only view (south toward sun and ocean) and even our east windows with reflected "movies" of it. The motion penetrates our house as we sit on our sofa or work/eat in our kitchen. (This motion is intolerable to me as an unavoidable and constant demand on my senses, and it feels menacing. It affects the same defensive feature of the brain that fast-moving commercials play upon to get your attention.) My husband and I are faced with a devalued, unusable property, which we must nevertheless maintain for the next 20 years of turbine domination. Will we outlast the turbine to come back in our 80's? Our history in Chilmark, present enjoyment, and hope of retirement here has been cast off as of no importance.

**It is critical that the Vineyarders understand that this outcome was avoidable, and is correctable, through reading the law correctly, i.e., as written.** It is not the zoning bylaws that give free rein and irresponsible siting of turbines, but rather the *interpretation* (i.e., "personal opinion") of legislation by those with a vested interest in wind energy, combined with local submission.

**THERE ARE FOUR MAJOR COMPONENTS NECESSARY TO ERECTING WIND TURBINES (WTs) ON VINEYARD FARMS.**

**The First Component** was expressed by Brian Nelson (Nelson Mechanical Design): "**Farm structure status for wind turbines is**

fer "Variations on a Theme of 40A,3" to "disambiguate" the "syntactical obscurity" and "concatenating... clauses" of the text of 40A/3. This is a piece of legislative whimsy and intimidation-by-grammar-and-syntax which does its best to discourage you from thinking you can understand 40A/3, that you should just rely on them so that you will not see the disparity between what they write and what the law is. MGL 40A/3 is actually quite easily read and understood. Regarding farm structures (which in that era meant a silo, barn, greenhouse, farm stand, etc., perhaps a small-scale windmill pumping water - all structures for on-site agricultural purposes), MGL 40A/3 says local zoning may not: ... prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture,...

It is only the wild attempts to legitimize wind turbines through this that cause the brain to hurt. MDAR administrators simply hope that we will not see the disparity of their wishes and the actual written law.

A clear example of such disparity is the MA Farm Bureau Federation's letter expressing its outrage to the Tisbury ZBA for its view of the Northern Pines turbine: "However, to say that the structure is NOT agricultural under 40A/3 is outrageous." The very next sentence, however, destroys the validity of that sentiment: "The purpose of this project is to reduce energy input costs to local farms and local schools, and to increase profit opportunities for these farms." Notice that the "purpose" he states (which is where the legal scrutiny of 40A/3 focuses) includes farms (plural), local schools, and profit opportunities (a term which could include making and selling bolts or DVDs) - all this is outside the legality of 40A/3 as written.

**The Second Component for turbine success is the blind acceptance by local officials** of MDAR's (et al) proclamation that WTs are farm structures (given that 51% of electricity produced is for the farm). It is tragic that Chilmark has enforced as law only "personal opinion". MDAR's legal counsel, Bob Ritchie, confirmed to me that this "personal opinion doesn't have any force of law", and he admits MDAR could be absolutely wrong in its view of turbines as farm structures. He also confirmed that 40A/3 allows reasonable