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## **REV's Response to ANR's Draft Policy on Wind Energy and Other Renewable Energy Development on ANR Lands**

**Background:** The Agency of Natural Resources (ANR) filed a draft Agency policy on June 17th, 2004. The policy states that commercial wind turbines and all other commercial renewable energy projects are not an allowable use on ANR lands. This policy includes temporary wind measurement towers and would not allow for the review of any commercial renewable energy project.

Prior to the issuance of this draft policy ANR had in place a moratorium on any applications for wind projects (including temporary towers for wind resource assessment) while the Agency did a policy review. As part of the policy review ANR developed a Wind Energy Work Group to help guide its wind power policy development process. ANR also held a series of public meetings regarding wind energy on state lands (funding for this process came from the Senator Jeffords Wind Energy Development monies that were appropriated to VT out of the US Dept. of Energy wind energy budget).

### **Response:**

Renewable Energy Vermont (REV) was pleased to see the following statements included in ANR's draft policy listing several reasons why increased development of renewable energy in Vermont is desirable:

- "Vermont's energy needs are growing while its future energy sources remain uncertain"
- "Part of meeting Vermont's future energy needs will likely involve development of new renewable energy sources in Vermont. "
- "An increased focus on renewable energy sources in Vermont would reduce the environmental impacts of fossil fuel-based energy production and is broadly supported by the Agency's mission statement. For many years, ANR lands have been a source of fuel wood for Vermont homes, businesses, and woodchip fired electrical generation plants."
- ANR broadly supports [...] development of new renewable energy sources in Vermont as part of a comprehensive effort to reduce the environmental impacts of energy production. The Agency believes that ANR facilities can and should serve as a model for [...] sustainable, renewable energy use. ANR will emphasize and proactively explore [...] developing small-scale renewable energy applications such as net-metered wind or solar generation systems and other distributor (*sic*) generation technologies as they become available at appropriate sites on ANR lands.

The above statements support REV's position that Vermont needs to find ways of increasing our use and generation of renewable energy, and that doing so on State lands should at least be considered on a case-by-case basis.

Unfortunately however, ANR follows their pro-renewable energy statements with a series of erroneous and ill-logical rational statements and a conclusion that all commercial renewable energy projects are prohibited from even being considered on State lands.

Here are nine points in response to the statements and positions that ANR makes in its draft policy:

### **1. ANR's Current "Uses of State Lands" Policy Does Provide An Appropriate Process Through Which Commercial Renewable Energy Projects Could be Reviewed.**

One of ANR's stated rationales for not allowing renewable energy projects is that the Agency's existing policy for the uses of state lands ("Uses of State Lands Policy") does not provide for an appropriate process through which renewable energy projects could be reviewed. They state:

*"Although the "Uses of State Lands" policy provides an appropriate general framework for considering new uses of state lands, it does not specifically address wind energy or other renewable energy development on ANR lands."*

The existing "Uses" policy is sufficient for mines, quarries, ski areas, trails, roads, communication towers and even oil and gas wells. Yet ANR claims that just because renewable energy projects are not mentioned that the Uses policy is not able to handle wind or any other commercial renewable energy project.

It would not be difficult for ANR to develop a review process within the "Uses of State Lands" policy that would allow ANR to review renewable energy proposals in a fair and consistent manner.

Under the existing Use policy there is already an established licensing and leasing process. But ANR fails to give any rational as to why the leasing process, while acceptable for the massive ridge-top developments of ski areas and tall communication towers, is not able to deal with any proposals for commercial renewable energy projects.

If the policy is not able to handle development proposals that are not specifically addressed than ANR should change the policy to specifically address wind and/or other renewable uses, and be able to handle future developments of unknown characteristics without having to alter the Use policy to specifically mention them.

It is REV's contention that ANR's existing "Uses of State Lands" policy does provide the necessary framework for review of commercial renewable energy projects. The Agency should further develop specific review guidelines for the review of commercial renewable energy uses to incorporate into their Uses policy.

## **2. “Newness” of Renewable Energy Proposals Not An Appropriate Rational For a Prohibition:**

Similar to their rational that the Uses policy does not specifically mention wind or other renewables ANR states that “Until this time, [...] ANR lands have not been considered as a potential site for the permanent development of a renewable energy facility” as another rational to not allow any commercial renewable energy project to even be considered for state lands.

When cell towers were being proposed as a new use ANR created a process to deal with any proposed towers on state lands. Notably, they did not create an open-ended moratorium on all communication towers as they are proposing to do for wind and all other commercial renewable energy projects.

ANR should, at the least, take the same approach to wind towers as they did with communication towers. It is confusing that ANR was able to develop a review process for communication towers but yet is unwilling to do so for wind towers or other renewable energy projects. This is troubling when one considers that the environmental benefits obtained from wind energy are much more in line with ANR’s mission statement and strategic plan than are the benefits of communication towers or ski areas.

## **3. Limited Potential of State Lands to Host Commercial Wind & Other Renewable Energy Projects Does not Support Prohibition of Such Projects.**

ANR states:

“While many ANR facilities and associated lands may lend themselves to the development of small scale renewable energy projects, there are presently only a few unrestricted ANR parcels where large scale or commercial wind energy development could potentially be considered. However, additional parcels on lower elevation lands may someday become desirable sites for commercial scale renewable energy projects due to advances in technology.”

While we agree that there are few state parcels where commercial wind development would be proposed in the near future, this does nothing to justify the ban on all commercial renewable energy projects. Furthermore, we disagree with the second part of this statement regarding advancements in wind technology (the statement says “renewable energy projects” but clearly they are talking about wind energy). While it may be true that sites that are not desirable today will become desirable in the future, it is unlikely to be due to advances in technology. Such a statement leads REV to believe that ANR has the misperception that wind turbines of today are not a mature technology. New sites are much more likely to become desirable due to increases in the prices of other energy sources so that developing the natural wind resources at lower elevations would be economically competitive.

The price of fossil-fuel based power is likely to rise when the environmental destruction caused by the burning of fossil fuels is given a monetary cost that today is not accounted for in energy prices. This environmental cost may be another factor that makes the development of renewable energy economically and ecologically desirable at sites not considered today.

#### **4. Uses and Purposes of ANR Lands Can Be Compatible With Commercial Renewable Energy Projects:**

ANR states:

“the Agency believes that large scale renewable energy development such as commercial wind farms would be incompatible with the uses and contrary to purposes of ANR lands and therefore will not be allowed. Temporary wind measurement towers and other exploratory uses that may lead to possible future large scale renewable energy development on ANR lands are also not allowed.”

ANR does an inadequate job of explaining how they arrived at their interpretation that wind farms would be incompatible and contrary. There are some parcels of ANR land where some renewable energy projects may be compatible and in line with the uses and purposes of those parcels. ANR cannot reasonably make such a blanket statement without considering specific proposals for specific parcels.

ANR states “such as commercial wind farms” but includes all commercial projects in their prohibition. However, there is no evidence that they looked at other renewable energy developments that might be proposed for state lands (micro-hydro, biomass or biodiesel plants for example). ANR seems to want to avoid making the impression that they are establishing a prohibition policy against one specific technology (wind energy), but it seems that is what they are doing.

Included in ANR’s proposed prohibition are temporary measurement towers and “other uses” that may precede a wind energy proposal, yet they give no explanations as to why these are included in the prohibition. The erecting of temporary towers can be done within the existing management plans (uses and purposes) of some State parcels and thus they should be considered an allowable use.

#### **5. ANR Creates Double Standard In Regard to Public Support**

Considering the prospect of a wind developer proposing a land exchange to develop a project ANR States:

“there are legislative options such as land exchanges that may be available for accommodating [commercial wind energy] use. Any such proposal would require substantial public support and ultimately, should result in a net gain of conservation acreage coming into public ownership. The Agency’s established long range management planning process for ANR lands is the appropriate mechanism for consideration of such proposals.”

REV appreciates ANR’s attempt at keeping the door to wind development open a slight crack with this suggestion. However, they are establishing a double standard regarding wind energy and the need to demonstrate public support.

In the draft prohibition policy ANR claims that there was no attempt at a quantitative measurement of public support for or against wind (or other renewables) on state lands. ANR has said that substantial public support for or against allowing for the review of wind projects on state lands was not going to dictate the formation of their policy regarding uses of state land for renewable energy projects.

Conversely, if there is to be a land exchange deal involving a renewable energy project then public support not only becomes necessary but it also must be “substantial”. ANR cannot have it both ways and be fair.

In addition, ANR does not explain why their long-range management planning process is adequate for land swap proposals but is not appropriate for far simpler renewable energy development proposals.

## **6. Draft Policy Hurts Renewable Energy Development In Vermont**

ANR states that they support the development of renewable energy as a way of decreasing the negative environmental impacts of other energy sources. They also made the following statement confirming that the public is in agreement:

“there is clearly considerable public support for the Agency to take a leadership role in regard to renewable energy development. It is clear there is also much public support for energy conservation and renewable energy development in general. This policy reflects these sentiments.”

REV feels strongly that nothing in ANR’s draft policy reflects the above sentiments in support of renewable energy development. Conversely, we feel it is an affront to these sentiments and shows that ANR did not adequately consider the majority view that some state lands may be able to host commercial wind or other renewable energy projects. Vermonters think that renewable energy proposals should at least be considered and allowed a fair review.

In addition ANR made the following statement:

“Large scale wind energy development in Vermont at this time is clearly not dependent on this small amount of state acreage becoming available. There are ample private lands presently available for such purposes which should be thoroughly explored before looking to ANR lands.”

The fact that wind development is not dependent on state lands does not provide logical rationale for a complete prohibition on all commercial renewable energy projects or even on wind energy projects.

While wind energy development is not dependent on the use of state lands it is somewhat dependent on general support from the State and the populace. An ANR policy that includes an absolute prohibition on wind energy could damage the positive perception that wind energy now enjoys amongst the public.

The Agency's proposed prohibition and the faulty rationale behind it could create the false impression that any negative impacts of wind energy are unknown and/or of such magnitude that projects should not even be proposed and reviewed but should be shut in a box and not considered at all, for any reason, anywhere on State land. That could become a key barrier to the advancement of wind energy in VT, and in turn, New England.

## **7. Wind Energy Impacts Are Well Understood**

In another rationale for the proposed prohibition on renewable energy projects ANR states:

“In addition, wind energy technology is rapidly developing and the environmental impacts associated with large scale wind energy development are not fully understood at this time.”

REV would like ANR to explain what impacts of large-scale wind energy development they feel are not fully understood. The truth of the matter is that the impacts of large-scale wind developments are just as understood as other allowable uses of state lands. ANR may not fully understand them but that is just because they have not taken the time to understand them.

There are about 17,000 currently operating commercial wind turbines in the US and many more worldwide. There have been numerous studies and investigations on the impacts of these existing wind turbines including at the Searsburg wind project right here in Vermont.

ANR should allow for proposals of wind projects on state lands and then, if they receive a proposal, decide if they can sufficiently understand the impacts of that specific proposed project. By imposing an outright prohibition they prohibit the Agency from developing the capacity to understand the impacts of wind projects, which they may find acceptable for some ANR parcels under certain circumstances.

Furthermore, the fact that the technology is rapidly developing should not have any barring on the development of a use policy. If ANR remains to see that such development is relevant to the prohibition of that technology they should explain what that relevancy is.

## **8. Allowing Wind and Renewable Energy Proposals Would be Consistent With ANR's Mission Statement and Strategic Plan**

Despite stating that an increased focus on renewable energy sources is supported by their strategic plan; ANR gives the following rationale for their absolute prohibition on commercial renewable energy projects:

*“Most importantly, the use of ANR lands for large scale renewable energy development falls outside the Agency's area of responsibility and is not supported by the Agency's (and its associated departments') mission statements or strategic plans. The use of ANR lands for wind farms and other large-scale renewable energy projects may potentially conflict with the Agency's (and its departments') responsibility to hold land as a trustee for the benefit of all people of the state.*”

*State forests and state parks are held in trust by the Department of Forests, Parks and Recreation for public outdoor recreation and multiple use forest management purposes. Wildlife Management Areas and other Department of Fish and Wildlife lands are held in public trust for fish and wildlife habitat and public use. Neither department's statutory authority makes mention of encouraging or enabling the use of state lands for commercial development or for large scale energy production."*

It is baffling how ANR could see how this is outside their responsibility. Any and all potential uses of state lands fall within the Agency's area of responsibility. It is ANR's responsibility to manage the state lands and carefully consider any and all potential uses of the lands.

ANR's mission is to "To protect, sustain, and enhance Vermont's natural resources, for the benefit of this and future generations." It is clear that this mission statement DOES support the careful review of proposals for wind energy on state lands.

It is also clear that the development of wind energy is one of the most promising strategies to protect Vermont's forests and lakes from the damages of acid rain and other pollution. In addition, wind energy development will help to protect our state lands from climate change wrought by the burning of fossil fuels. Furthermore, wind that blows across state lands is one of Vermont's natural resources and therefore, the potential to enhance that with wind turbines for the benefit of this and future generations should be considered.

By limiting the damage done by other forms of power production ANR would be protecting the natural resources of the State if they allowed renewable energy projects to be built on state land. Wind development does nothing to limit the protection or sustainability of VT's natural resources. In fact, wind development could help to increase the protection and sustainability of VT's natural resources. In addition, the development would have direct benefit (both economically and environmentally) for this and future generations.

Furthermore, just because renewable energy projects "may potentially conflict with the Agency's (and its departments') responsibility to hold land as a trustee" does not provide an acceptable rationale for a complete moratorium.

Such conflicts are of legitimate concern and developers should be aware of this potential conflict before they make any proposals to ANR. ANR would review proposals for any such conflicts, just as they do now for all other uses of state lands.

ANR claims that renewable energy projects are not supported by their strategic plan. REV disagrees and asks ANR to explain in more detail where they see the conflict between renewable energy development and their strategic plan.

In reviewing ANR's Strategic Plan REV found that it did support the review of wind and other renewable energy projects on state lands and saw nothing that would rule such developments out.

Here are two of the “Guiding Principles” of the ANR strategic plan:

We believe that people have a right to the reasonable use and enjoyment of the State's natural resources.

This “right” should extend to the potential use of State lands for the development of the natural wind and other renewable energy resources.

2. We believe that we must teach and practice stewardship to protect the integrity of the state's natural heritage and assure its wise use, and to protect and improve the health of Vermont's people and ecosystems.

In its draft policy ANR fails to address the fact that the health of Vermont’s people and ecosystems could be improved with carefully sited wind and other renewable power projects. The use of some state lands for renewable energy projects could help teach and practice stewardship and would help to protect the integrity of the State’s natural heritage and thus could be a wise use.

After the Guiding Principles ANR’s Strategic plan has several goals. Goal #2 is “Improved Health”, in which it is stated:

“The Agency of Natural Resources helps protect and improve the health of Vermonters and the vitality of our state's ecosystems through our efforts to enhance air and water quality”

A great way to meet that goal would be to find a way to support commercial renewable energy development instead of simply declaring all commercial renewable energy projects not allowable.

An all-embracing prohibition on wind in state lands could result in projects being delayed or stopped (not just on state lands but on private lands as well).

## **9. The Draft Policy Does Not Address The Economic Impacts**

ANR’s draft policy on commercial renewable energy projects on State lands fails to consider the economic impacts that such an all-encompassing prohibition on renewable energy could have.

There are two important aspects to the economics of such projects that ANR should review before deciding on a final policy.

First, renewable energy projects, such as a wind farm, on State land would pay substantial lease payments to the State. These payments could be used to further the goals of ANR. As ANR is surely aware, there are many under-funded aspects of the Agency’s work that could be greatly enhanced by the infusion of payments made by appropriately sighted renewable energy projects on state lands.

ANR needs to measure the benefits of such payments against any “costs” that a renewable energy project may have. They can only do this adequately on a case-by-case basis. ANR cannot make this cost-benefit analysis in the abstract or generally. Therefore, a prohibition, as proposed, is an inappropriate policy for the Agency to make.

Secondly, the development of renewable energy projects will bring economic benefits to the state as a whole. The more energy Vermont can competitively produce from local resources the stronger our economy could be. This will be especially true as the price of imported fossil fuel based energy continues to rise.

If the Vermont economy continues its heavy reliance on cheap fossil fuels until the time when these fossil fuels are no longer cheap Vermont risks economic collapse. If the VT economy collapses or takes a drastic downturn due to high fossil fuel energy prices than ANR’s budget will come under increased pressure.

Such economic pressure would likely result in budget cuts for ANR and their ability to fulfill their mission and goals would be greatly compromised.

Renewable energy will not only help to alleviate the economic impact of high fossil fuel prices for the state economy, but the lease payments from projects on state lands will be even more important to funding ANR’s activities during times of economic distress.

### **Conclusion:**

REV concludes that there is no need for a complete prohibition of commercial wind and other renewable energy projects on state lands. Such a policy does not meet the goals of the state lands use policy, nor does it comply with ANR’s mission statement and strategic plan.

Furthermore, it does not meet the demands of the majority of Vermonters, and puts wind and other renewable energy at an increased disadvantage to fossil fuel based energy at a time when even ANR agrees we need to increase our use of renewable energy.

REV believes that the rationale given for the moratorium is illogical, misguided, and based on misinformation.

REV suggests that ANR revise their draft policy to consider wind and other commercial renewable energy projects as allowable uses for state lands. ANR could use the current “Uses of State Lands” policy as the framework within which a thoughtful review process for commercial renewable energy projects on state lands could be created. Such a review process would balance the costs and benefits of proposed projects on state lands.