

# TOWN OF CAPE VINCENT

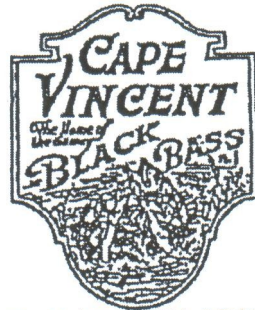
Jefferson County, New York 13618

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James G. Millington

February 15, 2013

Honorable Jeffrey C. Cohen  
Acting Secretary, NYS Board of Electric Power  
Generation Siting and Environment  
Three Empire State Plaza  
Albany, New York 12223-1350

## **Re: Case 12-F-0410 Cape Vincent Wind Power, LLC**

Dear Secretary Cohen:

On Tuesday, January 22, 2013, a second forum was held in Cape Vincent, New York involving the Towns of Cape Vincent and Lyme and BP Wind Energy. This was a follow-up to a meeting held on October 23, 2012 between the developer and the Towns' elected Boards, the appointed Planning Boards and Zoning Boards of Appeals. A critique of the first meeting was sent to you on October 30, 2012 and, in summary highlights the Towns' frustration with BP's lack of openness and clarity regarding their Cape Vincent Wind Farm project.

The second "workshop" was scheduled by the Town of Cape Vincent Supervisor in an effort to facilitate a more candid dialogue between BP and the effected Towns. BP was represented by Richard Chandler, Director, Business Development, BP Wind Energy and counsel for the local project, John Harris. The meeting was open to the public and recorded.

The meeting began with a Cape Vincent Town Board member distributing citations of comments submitted by involved agencies in their prior SEQR reviews of Cape Vincent Wind Power and the St. Lawrence Wind Farm. This was and remains relevant, as BP has since purchased the Acciona project and employed many of the same consultants to draft its own DEIS for its Cape Vincent Wind Power project. The records of correspondence submitted by both Federal and State agencies and the successive EIS submissions, culminating in Acciona's FEIS, appear to reflect the applicant's strategy to mostly ignore many stated concerns of regulatory bodies.

Mr. Chandler was asked to ensure that BP would fully address these issues under Article 10 proceedings. An informal discussion ensued with members of the Boards present directing specific questions to Mr. Chandler and Mr. Harris. Principal of these was the assertion Mr. Chandler has consistently made that the residents of Cape Vincent and Lyme supported BP's efforts to site a large wind farm in their communities. Confronted with the fact that over the last two election cycles all conflicted elected and appointed Board members had been replaced, Mr. Chandler finally confided that lease-holding property owners constituted what he considered sufficient evidence of support. He was reminded that in Cape Vincent, this group comprises only 3.9% of the town's population.

Noting that the application phase under Article 10 was approaching, a Board member inquired as to specifics of BP's intended project arrangement. The draft project map has not been updated since being unveiled in September 2012. The Town still does not know specifically what leaseholder will host what project component. BP has also been very resistant to sharing what property owners have 'good neighbor agreements' and who do not.

Once again, Mr. Chandler would only state that the company was looking at a 200-285MW wind farm and that the array and size of units was dependent upon existing technology. BP's Public Involvement Plan has been active for roughly four months and the targeted communities still do not know the magnitude of the company's project. Mr. Chandler offered no empathy toward the community's frustration at the lack of specificity regarding this simplest of detail, and did not indicate when answers might be forthcoming.

Mr. Chandler was next reminded of his June 27, 2012 correspondence to the Town, in which he stated that BP considered the updated Zoning Law to be "unreasonably burdensome". Yet, six months later and with the PIP process nearing its end, the Town still had not been advised as to what in the Law BP specifically objects. Mr. Harris responded by referring to notes made on his cell phone. Mr. Harris cited only the numerical sections and subsections of the Town Zoning Law. Neither he nor Mr. Chandler offered to discuss/explain what specific language in the Law was unacceptable to BP.

BP has a number of wind farms operating in the United States. The company and its consultants have had ample opportunity to evaluate impacts adverse to human health, safety and welfare including audible noise, low frequency sound, shadow flicker, vibration and electronic interference. Mr. Chandler refuses commenting on their experience. Yet, one has only to read a copy the BP Good Neighbor Agreement to see that they clearly recognize the existence of negative health effects and employ such contracts to quell potential opposition and legal exposure and to effectively create "standards" of operation and impact for targeted communities. The conclusion we reach is that in this case, BP's PIP is of little practical use and does not ensure that effected communities are given meaningful, accurate and timely information about what the developer plans for them.

This is further exemplified when a citizen expressed concern about the cumulative effects of the nearby Wolfe Island Wind Farm. The person addressed Mr. Chandler and explained that residents of Cape Vincent have been complaining about the noise and vibration coming from the 86 turbines just across the river. He asked if BP could set up monitoring equipment to measure the

noise/vibration produced by the wind farm. Mr. Chandler responded, "I appreciate the feedback sir; I just don't think we see that as a genuine adverse environmental health impact for the project."

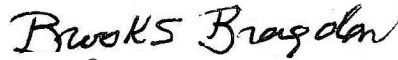
Mr. Cohen, the elected and appointed officials who represent the Town of Cape Vincent firmly believe BP and its representatives continue to pursue the PIP in an intentionally provocative manner. It seems clear that they perceive the Article 10 process as merely a pro forma exercise. We believe that much of the specificity that we desire may be delivered when the Preliminary Scoping Document is filed by BP. Unfortunately for the Town, the comment period for the PSS is only 21 days rather than the 150 days the PIP allowed for our review and comment. If this does in fact occur, it will be an example of how BP has manipulated the Article 10 process to suit their needs while at the same time minimizing our rights to a fair process. We would welcome your advice or action to mitigate this situation.

Respectfully yours,

Urban Hirschey – Town Supervisor



Brooks Bradgon – Deputy Supervisor



John Byrne – Town Council



Clifford Schneider – Town Council

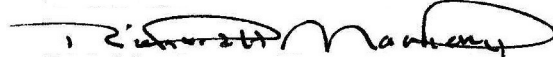


Michelle Oswald – Town Council



**We the undersigned appointed officials from the Town of Cape Vincent endorse and fully support this Town Board letter to the Public Service Commission regarding the Article 10 application for the Cape Vincent Wind Power project proposal.**

Richard Macsherry – Planning Board Chairman



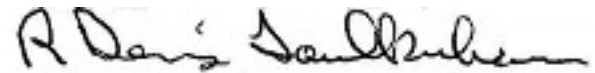
Robert Brown – Planning Board



Cyril Cullen



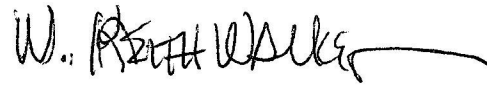
Cyril Cullen – Planning Board



Paul Docteur – Planning Board

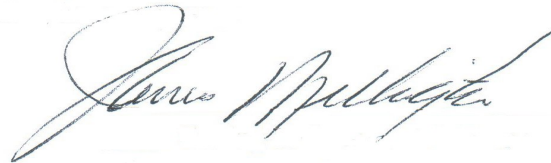


R. Dennis Faulkham – Zoning Board of Appeals  
Chairman



Ed Hludzinski – Zoning Board of Appeals

Keith Walker – Zoning Board of Appeals



Hester Chase – Zoning Board of Appeals



James Millington – Zoning Enforcement Officer