

# TOWN OF CAPE VINCENT

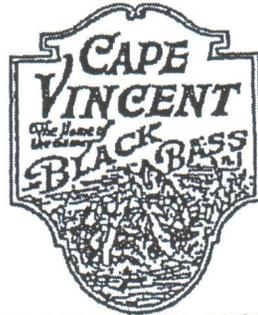
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October 18, 2013

Hon. Kathleen H. Burgess  
Secretary to the Commission  
New York State Public Service Commission  
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 Burgess:

We wish to bring to your attention what we must conclude to have been an oversight by those who drafted the Article 10 Law and Regulations regarding the Stipulation Phase of the process.

One of the premises for enacting the Siting Law was to streamline the process, suggesting in effect that local municipalities prior to Article 10 were inefficient and ungainly in addressing power generation development projects.

BP began the pre-application phase of its Cape Vincent Wind Power project proposal on September 17, 2012. Until May 21, 2013 there were specific and well understood timelines for complying with various elements in the regulations. For example, on May 21 the Administrative Law Judges convened a meeting in Cape Vincent to principally award intervenor funding, but also to begin the Stipulation Phase of the siting process. Because there is no specific time period specified for the Stipulation Phase it is open-ended and allows an applicant as much time as they deem necessary to move their application forward. In the case of BP's Cape Vincent project, however, we have yet to meet with BP after nearly five months in the Stipulation Phase. In addition, there does not seem to be any interest or effort by BP in getting the process moving and the issues resolved, while at the same time disregarding a specific request by Judge Agresta at the May 21 meeting to provide a project plan that considers Cape Vincent's local law.

The Town believes the delay by BP may be related more to its publicly stated intention to divest its wind assets, including the Cape Vincent project, than to any further time BP may require in preparing its application. On October 3, 2013 BP officials traveled to Cape Vincent and met with company leaseholders. Unconfirmed reports from some who attended the meeting indicated BP discussed abandoning the Cape Vincent project, among other things.

In the meantime, the Town is involved in our annual budget process and part of our deliberations involve funding the defense of our community from what would be the contrary and transformational development of our Town that is proposed by BP. Moreover, the uncertainty over BP's intentions requires that we provide adequate resources to fund our critiques of BP's plans. Anticipating the need to appropriate more money for the Article 10 process, we then come into direct conflict with tax cap requirements by the State. All of this is extremely burdensome to small municipalities, such as ours, that have limited resources.

Madame Secretary, we need some help and relief in the form of clarity and transparency. The Town would ask for the same consideration and same message from BP that it has provided to its leaseholders. We would also request that the Siting Board provide the Town with some indication of how long this phase of the process will continue.

BP has had our Town twisting in the winds of uncertainty since 2006. When Article 10 was enacted there was local apprehension about balance and fairness in the Article 10 process. But it was hoped by many that the new process would require prompt responses by all parties, and that timeliness would be adhered to by the applicant. However, we seem to be stuck again now, awaiting word from BP about its claimed cessation of wind project development. When? Knowing when matters to us. Certainly, you can appreciate that.

Please try to provide us with some relief by insisting that an applicant presuming to be moving forward under Article 10 not be permitted to circle over a town indefinitely. Our community development activity generally and the pursuit of a host of important municipal initiatives have long suffered from the chilling shadow of uncertainty that BP has cast over the town. Please attach some value to the needs of municipalities in the Article 10 process, Cape Vincent included. We have to be about our business as a community and BP, demonstrably, does not.

Respectfully yours,

Urban Hirschey – Town Supervisor	
Brooks Bradgon – Deputy Supervisor	
John Byrne – Town Council	
Clifford Schneider – Town Council	
Michelle Oswald – Town Council	