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August 8, 2018

Secretary to the Commission:
Honorable Kathleen H. Burgess

Presiding Examiners:

Honorable Michael Caruso
Honorable James Costello
Honorable Ashley Moreno

NYS Board on Electric Generation Siting and the Environment
3 Empire State Plaza
Albany, New York 12223-1350

Via email: Secretary@dps.ny.gov

Reference: Case Number 15-F-0327

Application of Galloo Island Wind LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 to Construct a Wind Energy Project.

Re: Party Status and Intervenor Funds.

Dear Secretary Burgess and Presiding Examiners Caruso, Costello and Moreno:

We ask that the following information be considered by the Siting Board before the Procedural Conference set for August 15, 2018 that we have requested to attend telephonically. We understand that Party Status and Intervenor Funding may be established at this conference.

In the chance that the telephone communications are not possible, effective or functional on the date of the conference we are submitting the following information at this time.

We are Anthony and Cara Dibnah, owners of Galloo Island Lighthouse which is located on the southern tip of Galloo Island. We have been identified as a Stakeholder and as a Party in the pre-Application phase of the Article 10 process of the proposed Galloo Island Wind Energy Project.

We have applied for and again ask the Siting Board to confer formal Party Status upon us at this Procedural Conference and award us Intervenor Funds to help defray the costs of protecting our interests on Galloo Island including the National Register of Historic Properties Galloo Island Lighthouse in this next phase of the Article 10 process.

The proposed Galloo Wind Project will encompass the relatively small area of 4.5 miles in length of the largely undeveloped pasture and grasslands of Galloo Island. An Industrial Wind Energy Facility will forever alter the character of the island, the bat and avian populations of Lake Ontario and the isolated intact setting of the historic resources that now occupy the island. If the proposed wind farm is built, we will be the only private owner of land on the island.

We will be the aggrieved owners of property on a once beautiful island that will more than likely be fenced off from the wind farm by the Applicant. The NRHP Galloo Island Lighthouse that is on the island for all intents and purposes will never be enjoyed by anyone, including ourselves.

The Galloo Island Lighthouse has been a part of the history of Jefferson County for almost two centuries. Both the Town of Hounsfield and the Village of Sackets Harbor state they are concerned with the preservation of that two centuries of history which is an integral part of those communities.

We have reached out to the Town on several occasions requesting that they include the Galloo Island Lighthouse in the Article 10 process, specifically the visual impacts that will be realized as a result of the proposed wind farm project.

In our letter posted to the DMM on August 12, 2016 in response to a letter by Curtin & DeJoseph who represent the Town, we voiced our concerns that the Town was not including our property and the Galloo Island Lighthouse in the studies to be done by Saratoga Associates. We submitted to the Town ideas of views to be included for visual assessments in the Saratoga Associates studies.

Again in February of 2017, we approached the Town of Hounsfield asking for clarification of the exclusion by the Town of the Galloo Island Lighthouse in the Saratoga Associates studies.

The response from the Town and its' representatives were that the Applicant has identified the Lighthouse as a resource but it was up to the Applicant how to review the property. In our letter posted to the DMM on February 17, 2017, we shared our frustration with the lack of interest of the Town and our frustration of the Stipulation Process.

Neither the Town nor the Village have contacted us or included the Galloo Island Lighthouse in any of their studies, reviews or analysis that we are aware of. They have shown no interest or inclination in the protection of the lighthouse even though the Comprehensive Plan of 2014 for the Town of Hounsfield prominently displays Galloo Island Lighthouse on the cover and also a photo of the lighthouse within the pages of the plan, more photos than of Madison Barracks that has been so prominent in this discussion for protection.

Those photos that are prominently used in the Town of Hounsfield Comprehensive Plan (without our consent) are of a Federally protected property that the Town has all but ignored in the Article 10 process.

The Applicant has stated that the Galloo Island Lighthouse brings no value to their project. Apex Clean Energy has explained on the Galloo Island Wind Project website that any future plans for the lighthouse are up to the owners.

Any past, current and future plans that we have had or may have in the future for the restoration and renovation of the NRHP Galloo Island Lighthouse are inextricably, undeniably affected by the presence of an Industrial Wind Energy Facility within feet of the property with numerous wind turbines lining the access road to our property from Gill Harbor to the southern end of the island.

We are ordinary individuals. We do not have stables of secretaries, lawyers and computers at our disposal. We are probably the least able of all the parties to financially and physically shoulder the burden of the Article 10 process to protect our interests on Galloo Island.

At this time, our availability of funds is only our personal funds and whatever we can bear to protect our interests. Those funds are enormously less than those of the Applicant, and significantly less than the Town of Hounsfield and the Village of Sackets Harbor, both of which are assured Party Status in this next phase of the Article 10 process.

The Siting Board has previously denied to award Intervenor Funds to us in the pre-Application phase of Article 10 because we do not reside in a dwelling that is habitable in the area. Hence we were denied the opportunity to receive financial assistance in this matter to protect Galloo Island Lighthouse and protect our interests on the island. We have been made aware that unless the lighthouse is made habitable, we will not be awarded Intervenor Funds in this next phase of the Article 10 process.

To make the buildings habitable with the threat of an Industrial Wind Energy Facility with 30 turbines, approximately 600' tall, Met towers and associated buildings built adjacent to our property and along our access easement is an unreasonable requirement. That threat has been present for over 10 years.

It is also unreasonably burdensome for a single adjacent landowner to shoulder the costs of opposing a multi-million dollar company that wants to build a wind farm next to their property that will virtually make their property valueless. Without Intervenor Funding we will be intimidated into either bankrupting ourselves or sacrificing the property and the NRHP Galloo Island Lighthouse to the Applicants' desire to put a Wind Energy Facility on Galloo Island. We are sure either option is acceptable to the Applicant.

The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings does not recommend "Placing industrial wind-powered equipment on the site where it is highly visible when it is not compatible with the historic character of the site." This standard certainly applies to placing 30, 600' wind turbines within feet of an historic property, all of which will be prominently visible and change the character of the site, whether that view is from the top of the Lighthouse tower, or from the waters of Lake Ontario, or from the shoreline of the mainland.

Mr. Muscato has requested that our application for Intervenor Funds be rejected citing the Board's own statement that the "common definition of a dwelling includes the concept of habitability". That common definition is a judgment made by the Siting Board; not contained in 6 NYCRR 1000.2 (s).

May we remind the members of the Siting Board, just as they are able to interpret what they have considered a common definition, they also retain the discretion to allow a third party "Party Status" and to join the proceedings for the protection of their interest by awarding Intervenor Funds. Mr. Muscato will certainly object to that discretion, but we urge the Siting Board to do so. It is the right thing to do.

Recently Cara had a conversation with the Nature Conservancy inquiring if they would hypothetically be interested in the donation of a lighthouse property on an island six miles offshore next to a wind farm. The resounding answer was an emphatic no they would not be interested.

We ask the Siting Board to include in the next phase of the Article 10 process, the issue of the status of the access road from Gill Harbor to the southern end of the island, the road routinely identified as Lighthouse Road. The land rights are in dispute between the Applicant and ourselves and should be established before any proposed development of the island.

The Applicant is attempting to appropriate this road that provides access to the two parcels at the southern end of the island for the exclusive use of the Industrial Wind Energy Facility. The clarification of land rights will contribute to the compilation of a more complete record of the appropriateness of the site and facility and the appropriateness of the seven turbines that are proposed to be placed along the historically and legally established access road to the southern end of the island.

Mr. Neil Habig, Senior Project Manager and a developer of the proposed Galloo Island Wind Energy Project, explained to us that Apex Clean Energy's position, with no supporting documentation, is that the easement for this access road was created for a specific purpose that no longer exists since the USCG removed the light from the Galloo Island Lighthouse tower.

That removal was accomplished in a faulty Section 106 Review without our knowledge or consideration by the USCG of the complications that removal may create to the restoration and renovation of the Lighthouse. The issue of the faulty Section 106 review done by the USCG relating to the removal of the light from the tower of Galloo Island Lighthouse that may have unintended and unrecognized consequences, is currently being reviewed by USCG attorneys.

Mr. Habig also continued to explain that it is the position of Apex that NYSDEC **does** retain the right to use the access easement to travel to their property which is adjacent to our property. Yet both the NYSDEC and we share in the benefit of the use of the road to access our properties which together comprise the former USCG Light Station on Galloo Island. Our easement to

travel from Gill Harbor to our property over the island was included in the Deed we received when we purchased the property; it did not go away.

The purpose of the easement that was granted to the USCG and has been deeded to us, was to dock their vessels at Gill Harbor and to travel over the island from the Life Station at Gill Harbor to the Light Station at the southern end of the island for access and for the maintenance of the property as a whole not just the lighthouse and not just the physical light itself. We have found no documentation that the easement was ever extinguished or abandoned by the USCG, by NYSDEC or by us.

Gill Harbor is the only safe harbor on the island and the access easement was of prime importance to the USCG for safety of its' personnel to maintain, repair and operate not only the lighthouse but the entire Light Station property as well. Assurance of the retention of the easement was one of the conditions required by the NYSDEC before they accepted the parcel from the USCG that is adjacent to our property.

Recently the USCG has determined that there is no legal impediment that will prevent the granting of a PATON application to relight the tower of Galloo Island Lighthouse which is currently being processed.

The Lighthouse also retains an Arc of Visibility easement that encompasses the area proposed for a Wind Energy Facility that the Applicant has not discussed and appears to ignore. This subject needs to be considered in this Article 10 process since the wind turbines will interfere with the Arc of Visibility easement.

There are numerous issues that we have submitted to the Siting Board that have not been addressed by the Applicant or the Town of Hounsfield. Concerns such as the dramatically altered Viewshed, Noise and Vibration Studies, Flicker Studies, fire control measures to protect the lighthouse and Construction Protection Plan to delineate a few.

We will be the only inhabitants on an island six miles from shore. Studies done by the Applicant were on land in areas that contain more than one neighbor. Any sound that is not made by the natural world will be objectionable to us. The only background noise should be of the animals, insects and the water, not the continual humming of wind turbines which will be more pronounced in this environment.

The Galloo Island Lighthouse an old structure that is in need of restoration. The vibrations associated with the ground preparation and the construction installation of the turbines could contribute to the deterioration of the structures. No data exists regarding the structural aspects of the lighthouse complex to compare with conditions after the turbines have been placed on their foundations. That data needs to be gathered and studied. The Applicant has taken no efforts in this area specifically related to the unique characteristics of our lighthouse structures.

The Applicant has not provided specific measures that will be taken to ensure the safety and security of the Lighthouse in the event of a catastrophe directly caused to the Wind Energy Facility on Galloo Island such as ice throw, fire, tower collapse. The nearest 600' wind turbine is 1,500 feet from our property. We have no assurances or confidence that Apex will clean up and or fix any damage to our property once the wind farm is operational.

The Applicant has stated that although the risk of blade throw is minimal, the Applicant will have procedures in place in the event of a blade throw incident. These procedures will include emergency shutdown procedures, post-event site security measures, immediate notification of State and local officials. But we have no confidence that any local officials will contact us if our property is affected by the malfunction of a turbine or the Met tower considering the lack of interest they have shown in including Galloo Island Lighthouse in the Article 10 process.

The Applicant has stated in Exhibit 4 of the Application that:

Visibility of the proposed turbines is not expected to affect the use and enjoyment of the surrounding areas for the current and planned land uses.

The Facility's potential effect on a given historic property is limited to possible changes to the property's visual setting, resulting from the introduction of wind turbines.

The proposed Facility is thus consistent with the existing land uses on this island and is not anticipated to adversely affect potential development on the island. No potential future land use restrictions are anticipated because of the lack of available access to the adjacent parcels and the lack of pending land use applications.

We vehemently disagree. The wind farm will adversely affect the development of our property. The wind farm will not possibly change the visual setting, it will dramatically change the visual setting for Galloo Island Lighthouse from anyone's point of view whether in the tower, on the land, in the water or from the mainland.

The Applicant seems to only be concerned with how the island is currently being used, standards that are in place now are the only ones considered. The application does not take into consideration that the island is not stagnant, locked in time with what is currently occurring on the island. Apex Clean Energy has proposed an Industrial Wind Energy Facility that will preclude future prospects for our property on Galloo Island and we believe they intend to make certain there is no future for Galloo Island Lighthouse, or at best to be kept "in a state of arrest" to quote Neil Habig.

If this project is approved and built, the wind farm will completely make our property useless for ourselves, guests, and any future owner. It will completely devalue our property.

With funding we will be able to hire an attorney that will be able to proceed in a manner more conducive to the Article 10 process and more conformable to the judicial processes that most attorneys are comfortable with.

Without Intervenor Funding, we will continue to submit our questions and concerns to the Applicant and to the Siting Board not knowing if we are having any type of affect or just participating in an exercise of futility that is disguised as an effort to appeal to the public that this is a fair and open process.

There is no reason why we as the most effected entity in this proposed project, the only adjacent landowner, should not be granted Party Status.

We ask you again to use your discretion to allow us Intervenor Funds to help us defray the costs of protecting our property and the Galloo Island Lighthouse.

Andrew Jackson said, "Every man is equally entitled to protection by law; but when the laws undertake ... to make the rich richer and the potent more powerful, the humble members of society the farmers, mechanics, and laborers who have neither the time or the means of securing like favors to themselves, have a right to complain of the injustice of their government."

Respectfully,

Anthony and Cara Dibnah

