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CONFIDENTIAL

John Hare, Town Supervisor and Town Board Members:

Jim Hitchcock
David Koebelin
David O'Dell
Ed Allen

Town of Allegany
52 West Main St.
Allegany, NY 14706

Re: proposed local law changes


Dear Mr. Hare and Town Board Members:

Please accept my apologies for missing this week's Town Board meeting. I understand the Board has specific concerns about my June 4 proposal and would like additional clarification.

The two most important changes I've proposed are the elimination of the 2500-foot limit within which future noise complaints could be considered; and the noise limit itself, which I proposed be modified to 6 dBA above nighttime background sound levels.

I know of no town in New York that has established noise limits where the limit is itself limited to a certain distance from the noise source. Instead, all towns with numerical noise limits make those limits global. Dropping the 2500-foot reference will bring Allegany's local law in line with all or most other town laws limiting noise.

The 6 dBA limit on noise increases is proposed in order to avoid a determination that the current limit is "unreasonably burdensome in light of the technology," if an application for a wind farm in Allegany is made under Article 10 of the Public Service Law. Otherwise, a state Siting Board may override the local limit.

Wind farms are a unique technology that generates most complaints at night, when low-frequency noise can travel long distances in a very quiet environment. The Board is well aware of this, having studied the matter at length. These two proposals do not require any further technical study. The current law, by requiring a low-frequency noise analysis, already embodies a finding that wind farms generate low-frequency, pulsating noise, and the Board is well aware of the problematic nature of such noise. This proposal asks the Board to make the local law more logical, not to embark on new studies.

Finally, in my June 4 memo, I discussed the fact that noise studies submitted as part of an application for a zoning permit ordinarily include one or more maps showing noise contour lines—the distances at which the project sponsor concludes specific sound levels from the project would be reached. These contour lines are not meant to be enforceable. Their purpose, rather, is to provide the approving body (here, the Planning Board) with a reasonable assurance that the limits set forth in the local law will not be exceeded. If the study does a good job, there should be few complaints.

However, it is always possible that someone living farther away than, say, a 40 dBA contour line will complain. In that case, the complaint should be addressed to determine if it has any basis. If the conclusion is that the local limit has been exceeded, some action should be taken to see that it doesn't happen again. For example, in some communities it has been determined that one or two turbines are causing the problem, and can be resolved by asking the operator not to run those one or two turbines at night.

Thus, there should be no concern that contour lines are unenforceable. They are not meant to be. Only the Town's noise limit is enforceable. That is the conventional approach to regulating noise, and should work here.

I hope this clarifies matters. Concerned Citizens of Cattaraugus County feels strongly that, under the circumstances, the Board should take action on the proposal as soon as possible.

Respectfully,

Gary A. Abraham

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cc: Kathy Boser
Richard Stanton, Esq.
Daniel Spitzer, Esq.