

1 14-F-0490, 16-F-0062, 16-F-0559 - Siting Board 5-26-2021

2 NEW YORK STATE BOARD ON
3 ELECTRIC GENERATION SITING AND
4 THE ENVIRONMENT

5 CASE 14-F-0490- Application of Cassadaga Wind LLC for a
6 Certificate of Environmental Compatibility and Public Need
Pursuant to Article 10 to Construct a Wind Energy Project.

7 CASE 16-F-0062 - Application of Eight Point Wind, LLC for
8 a Certificate of Environmental Compatibility and Public
Need Pursuant to Article 10 to Construct a Wind Energy
Project.

9 CASE 16-F-0559 - Application of Bluestone Wind, LLC for a
10 Certificate of Environmental Compatibility and Public Need
11 Pursuant to Article 10 for Construction of the Bluestone
Wind Farm Project Located in the Towns of Windsor and
12 Sanford, Broome County.

13 Siting Board Meeting

14 Date: Wednesday, May 26, 2021 @ 10:00 a.m.

15 VIA WEBEX

16 TAMMY MITCHELL, alternate of the Chair

17 LOUIS ALEXANDER, alternate of Basil Seggos, Department of
Environmental Conservation

18 DR. ELIZABETH LEWIS-MICHL, alternate of Dr. Howard Zucker,
19 Department of Health

20 VINCENT RAVASCHIERE, alternate of Eric Gertler, Empire
21 State Development Corporation

22 JOHN WILLIAMS, alternate of Richard Kauffman, New York
State Energy Research and Development Authority

23 John Mauro and Barbara Mirch, Ad Hoc Members for Case 16-
24 F-0559

25

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2 (On the record 10:00 a.m.)

3 CHAIR DESIGNEE MITCHELL: My name is
4 Tammy Mitchell. I am the Director of the Office of
5 Electric, Gas and Water at the New York State
6 Department of Public Service. I have been designated
7 to serve as the alternate representing the chair of
8 the New York State Board on Electric Generation
9 Siting and the Environment. I'd like to call this
10 meeting of the Board on Electric Generation Siting
11 and the Environment to order.

12 Before we get started I would like to
13 note our arrangements for the meeting today. In line
14 with the guidelines concerning social distancing and
15 minimizing large gatherings and in keeping with the
16 executive order suspending provisions of the Open
17 Meetings Law on an emergency basis, we are conducting
18 today's meeting remotely. I would like to remind
19 those who are participating by phone to please mute
20 their lines except when they are speaking.

21 The public will have the opportunity
22 to listen to the meeting by going to the department's
23 webcast page. And we will also record and transcribe
24 the meeting as has been our practice. These
25 arrangements have been reviewed by our general

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2 counsel, and he has found that they meet the
3 requirements of the executive orders and that they
4 meet my own expectations honoring the intent of the
5 open meetings law.

6 Before moving to the agenda, I would
7 like to introduce the alternates representing the
8 permanent members of the siting board. When I call
9 your name please confirm that you are present on the
10 call. Louis Alexander, alternate for Basil Seggos,
11 Department of Environmental Conservation.

12 MR. ALEXANDER: Present.

13 CHAIR DESIGNEE MITCHELL: Thank you.
14 Dr. Elizabeth Lewis-Michl, alternate for Dr. Howard
15 A. Zucker, Department of Health?

16 DR. LEWIS-MICHL: Present.

17 CHAIR DESIGNEE MITCHELL: Thank you.
18 Vincent Ravaschiere, alternate for Eric Gertler,
19 acting commissioner, New York State Department of
20 Economic Development and president and chief
21 executive officer -- chief executive officer
22 designate Empire State Development?

23 MR. RAVASCHIERE: Present.

24 CHAIR DESIGNEE MITCHELL: Thank you.
25 John Williams, alternate for Richard Kaufman, New

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2 York State Energy Research and Development Authority.

3 MR. WILLIAMS: Present.

4 CHAIR DESIGNEE MITCHELL: Thank you.
5 And I would like to introduce the ad hoc members for
6 Case 16-F-0559. Please say you are present when I
7 call your name. Barbara Mirch?

8 MS. MIRCH: Present.

9 CHAIR DESIGNEE MITCHELL: Thank you.
10 And John Mauro?

11 MR. MAURO: Present.

12 CHAIR DESIGNEE MITCHELL: Thank you.
13 Secretary Phillips, are there any changes to the
14 agenda?

15 SECRETARY PHILLIPS: There are no
16 changes to the agenda.

17 CHAIR DESIGNEE MITCHELL: Thank you
18 Secretary Phillips. We will start with Case 16-F-
19 0559, Application of Bluestone Wind, L.L.C. for a
20 certificate of environmental compatibility and public
21 need pursuant to Article 10 for construction of the
22 Bluestone Wind Farm project located in the Towns of
23 Windsor and Sanford, Broome County and the first two
24 items for discussion presented by Cassandra Partyka,
25 assistant counsel, Department of Public Service.

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2 James McClymonds, chief administrative
3 law judge, Department of Environmental Conservation,
4 Dakin Lecakes, chief administrative law judge,
5 Department of Public Service and Robert Rosenthal,
6 general counsel are available for questions. Ms.
7 Partyka, please begin.

8 MS. PARTYKA: Good morning, Chair
9 Designee Mitchell and members of the board. Before
10 you today is an order recommending approval of
11 Compliance Filings 46, 47, 50, 51, 52, 53, 56B and C,
12 57, 58, 59, 60, 61, 62, 63 and 71 submitted by
13 Bluestone Wind, L.L.C. On December 16th, 2019 the
14 New York State Board on Electric Generation Siting
15 and the Environment granted a certificate for
16 environmental compatibility and public need with
17 conditions to Bluestone Wind, L.L.C. pursuant to
18 Public Service Law Section 168.

19 The certificate order authorizes
20 Bluestone Wind to construct and operate a utility
21 scale wind energy facility consisting of up to 27
22 utility scale wind turbines with a capacity of up to
23 124 megawatts in the Towns of Windsor and Sanford in
24 Broome County. The certificate holder submitted its
25 general civil construction package which includes

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2 Compliance Filings 46, 47, 50, 51, 52, 53, 56B and C,
3 57, 58, 59, 60, 61, 62, 63 and 71 on April 15th, 2021
4 consisting of, among other things, compliance filings
5 regarding maps, shape files, geotechnical engineering
6 reports, transportation routes and various plans
7 regarding blasting, agriculture, emergency action,
8 quality assurance and quality control, traffic
9 control, et cetera.

10 Supplements to several of those
11 compliance filings were submitted on April 30th, 2021
12 and May 4th, 2021. In addition, information report
13 41A titled Bluestone Wind F.A.A. permits was filed on
14 April 30th, 2021. These filings would generally
15 allow the certificate holder to begin site
16 preparation and access road construction subject to
17 the conditions on order and as discussed as follows.

18 The order before you recommends that
19 construction activity of any kind associated with the
20 general civil construction phase of the project shall
21 not commence on turbine sites 1, 4, 21, 25, 27, 29,
22 33, 34, 36 and 40 until Federal Aviation
23 Administration determination with conditions or
24 determinations of no hazard are filed with the
25 secretary. If any details regarding these turbine

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2 sites are modified, due to F.A.A. permitting
3 requirements, as ordered directs Bluestone Wind to
4 update and refile all relevant compliance files.

5 The F.A.A. determination for all other
6 turbines sites were submitted to the secretary on
7 April 30th, 2021 and satisfied the requirements of
8 Certificate Condition 41A. Thus the order recommends
9 that general civil construction may proceed for those
10 turbine sites. The order before you also recommends
11 allowing construction vehicles to cross the Bluestone
12 pipeline provided that the certificate holder adheres
13 to the requirements of the Bluestone Wind pipeline
14 crossing agreement filed with the secretary on May
15 4th, 2021.

16 No other construction activity will be
17 allowed over the Bluestone pipeline until additional
18 compliance filings are made in accordance with the
19 SEEP guide. The order also recommends that no work
20 of any kind be allowed to commence over the existing
21 Millennium pipeline until all appropriate compliance
22 filings related to subparts 1 through 5 on page 5 of
23 the SEEP guide are filed and approved.

24 Accordingly, the order before you
25 recommends approval of the complied filings 46, 47,

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2 50, 51, 52, 53, 56B and C, 57, 58, 59, 60, 61, 62, 63
3 and 71 as filed and supplemented that they reasonably
4 assure compliance with the corresponding certificate
5 conditions in the certificate order and are approved
6 for site preparation and access road construction
7 provided the certificate holder adheres to the
8 specific conditions discussed in detail in the order.

9 A separate order before you relates to
10 Certificate Condition 48 which pertains to the
11 certificate holders decommissioning plan and site
12 restoration. The certificate holder's compliance
13 filing 48 as supplemented on December 2nd, 2020,
14 February 9th, 2021, and March 26th, 2021 includes
15 accessible documentation, cost estimates, letters of
16 credit and plans for decommissioning and reasonably
17 assured compliance with the related certificate
18 condition.

19 Therefore, the order before you
20 recommends approving the decommissioning plan filed
21 by Bluestone Wind on October 27th, 2020 and
22 supplemented on December 2nd, 2020, February 9th,
23 2021 and March 26th, 2021 pursuant to Certificate
24 Condition 48. Under Certificate Condition 48,
25 letters of credit shall be updated after one year of

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2 facility operation and every fifth year thereafter
3 based on updated estimates pursuant to Certificate
4 Condition 48A.

5 Any reference to salvage value or
6 offset cost associated with decommissioning and site
7 restoration activities or expiration of the letters
8 of credit before decommissioning occurs is
9 inconsistent with Certificate Condition 48 and
10 previous siting board decisions as discussed in the
11 order. This concludes my presentation and I am
12 available for questions you may have. Thank you.

13 CHAIR DESIGNEE MITCHELL: Thank you
14 very much, Ms. Partyka for that thorough
15 presentation. I will be supporting these items
16 recommending approval for compliance filings as
17 described. Let me now turn to my fellow board
18 members for any comments or questions concerning the
19 orders. Mr. Alexander?

20 MR. ALEXANDER: Thank you. I have no
21 questions or comments regarding the first order
22 discussed. With respect to the second order dealing
23 with Number 48, I did have a comment relative to the
24 salvage value but that has been addressed in the
25 presentation today. So I have no further comments or

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2 questions on that second order.

3 CHAIR DESIGNEE MITCHELL: Thank you,
4 Mr. Alexander. Dr. Lewis-Michl?

5 DR. LEWIS-MICHL: No comments or
6 questions.

7 CHAIR DESIGNEE MITCHELL: Thank you.
8 Mr. Ravaschiere?

9 MR. RAVASCHIERE: No comments or
10 questions.

11 CHAIR DESIGNEE MITCHELL: Thank you.
12 Mr. Williams?

13 MR. WILLIAMS: Thank you. No comments
14 or questions.

15 CHAIR DESIGNEE MITCHELL: Thank you.
16 Ms. Mirch?

17 MS. MIRCH: No comments or questions.

18 CHAIR DESIGNEE MITCHELL: Thank you.

19 And Mr. Mauro?

20 MR. MAURO: No comments or questions.
21 Thank you.

22 CHAIR DESIGNEE MITCHELL: Thank you.
23 I will now call for a vote on the order concerning
24 compliance filings 46, 47, 50, 51, 52, 53, 56B and C,
25 57, 58, 59, 60, 61, 62, 63 and 71 the general civil

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2 construction package. This is Tammy Mitchell and my
3 own vote is in favor of the recommendation as just
4 described. Mr. Alexander, how do you vote?

5 MR. ALEXANDER: I vote in favor.

6 CHAIR DESIGNEE MITCHELL: Thank you.

7 Dr. Lewis-Michl?

8 DR. LEWIS-MICHL: In favor.

9 CHAIR DESIGNEE MITCHELL: Thank you.

10 Mr. Ravaschiere?

11 MR. RAVASCHIERE: I vote in favor.

12 CHAIR DESIGNEE MITCHELL: Thank you.

13 Mr. Williams?

14 MR. WILLIAMS: In favor.

15 CHAIR DESIGNEE MITCHELL: Thank you.

16 Ms. Mirch?

17 MS. MIRCH: In favor.

18 CHAIR DESIGNEE MITCHELL: Thank you.

19 Mr. Mauro?

20 MR. MAURO: In favor.

21 CHAIR DESIGNEE MITCHELL: Thank you.

22 The order is confirmed and the recommend --
23 recommendation is adopted. Next I will call for a
24 vote on the order concerning Compliance Filing 48
25 pertaining to the decommissioning plan and site

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2 restoration. This is Tammy Mitchell and my own vote
3 is in favor of the recommendation as described? Mr.
4 Alexander, how do you vote?
5 MR. ALEXANDER: I vote in favor.
6 CHAIR DESIGNEE MITCHELL: Thank you.
7 Dr. Lewis-Michl?
8 DR. LEWIS-MICHL: I vote in favor.
9 CHAIR DESIGNEE MITCHELL: Thank you.
10 Mr. Ravaschiere?
11 MR. RAVASCHIERE: In favor.
12 CHAIR DESIGNEE MITCHELL: Thank you.
13 Mr. Williams?
14 MR. WILLIAMS: In favor.
15 CHAIR DESIGNEE MITCHELL: Thank you.
16 Ms. Mirch?
17 MS. MIRCH: In favor.
18 CHAIR DESIGNEE MITCHELL: Thank you.
19 And Mr. Mauro?
20 MR. MAURO: In favor.
21 CHAIR DESIGNEE MITCHELL: Thank you.
22 The order is confirmed and the recommendation is
23 adopted. We'll now move to the third and fourth
24 items for discussion both of which concern Case 16-F-
25 0062, Application of Eight Point Wind, L.L.C. for a

1 14-F-0490, 16-F-0062, 16-F-0559 - Siting Board 5-26-2021
2 certificate of Environmental Compatibility and Public
3 Need pursuant to Article 10 to construct a wind
4 energy project.

5 The orders will be presented by Dakin
6 Lecakes, chief administrative law judge, Department
7 of Public Service and Heather Behnke, assistant
8 counsel, Department of Public Service. James
9 McClymonds, chief administrative law judge,
10 Department of Public Service and Robert Rosenthal,
11 general counsel are available for questions. Judge
12 Lecakes, please begin.

13 A.L.J. LECAKES: Thank you. And good
14 morning, Chair Designee Mitchell and members of the
15 board. For the first of these two companion Eight
16 Point Wind items, before you is an order that if
17 adopted will grant a request for the siting board to
18 waive the substantive requirements of two local laws.
19 The waivers will allow the siting board to then
20 consider Eight Point Wind's petition for amendments
21 to the board's August 20, 2019 order which granted to
22 Eight Point a conditional certificate of
23 environmental compatibility and public need.

24 The certificate approved the
25 construction and operation of a wind energy project

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2 consisting of up to 31 utility scale wind turbines
3 with a capacity of up to 101.8 megawatts to be
4 located in the Towns of Greenwood and West Union in
5 Steuben County. In February 2021, Eight Point
6 requested approval, among other things, to install
7 taller more efficient turbines which would also
8 reduce the number of turbines necessary for the
9 project.

10 In a few moments, Heather Behnke will
11 present staff's recommendation on those amendments.
12 For our purposes, the specific request to construct
13 those taller turbines created a conflict between the
14 proposed certificate amendments and two local laws.
15 The Town of Greenwood amended Wind Energy Facility
16 Law, Local Law Number 1 of 2017, Section 12B and the
17 Town of West Union Wind Energy Facility Law, Local
18 Law Number 1 of 2017, Section 12B both of which
19 require that wind turbines built in those towns not
20 exceed a maximum of 600 feet in height.

21 As noted by Secretary Phillips in a
22 March 29th, 2021 letter to Eight Point, a local law
23 waiver request requires a substantive finding that
24 necessitated an evidentiary hearing before hearing
25 examiners. Department of Environmental Conservation

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2 Chief Administrative Law Judge James McClymonds
3 joined me to preside over this matter and consider
4 the request for a waiver for our recommendation to
5 you today. The only issue in this first order for
6 your consideration is whether the height restrictions
7 in the identified local laws should be waived to
8 allow for the siting board to further consider Eight
9 Points requested amendments.

10 Consideration of the resulting
11 environmental impacts from the requested amendments
12 is included in the second order that Ms. Behnke will
13 discuss in a moment. For our purposes, we assume
14 that the environmental impacts are consistent with
15 those found to be minimized to the maximum extent
16 practicable in the siting board's August 2019 order
17 and as it may be amended. Under Article 10, the
18 siting board may waive a local law after making a
19 finding that the law is unreasonably burdensome in
20 view of existing technology or a finding that such
21 waiver is otherwise in the public interest.

22 To make its determination on a waiver
23 request, the siting board should consider the state
24 of available technology, the nature and economics of
25 reasonable alternatives, the environmental impacts of

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2 the project, the impact of construction and operation
3 of related facilities, the consistency of the
4 construction and operation of the facility with the
5 energy policies and long range energy planning
6 objectives and strategies contained in the most state
7 -- recent state energy plan and the impact on
8 community character.

9 The siting board has already made many
10 of these determinations in its August 2019 order when
11 it found the project to be in the public interest and
12 granted to Eight Point a certificate to construct and
13 operate the facility. And, again, we'll soon vote on
14 amendments to the certificate in which it further
15 considers the project's impacts. I will now discuss
16 those considerations not already made or to be made
17 in the subsequent amendment order, namely, the state
18 of available technology and the nature and economics
19 of reasonable alternatives.

20 During the evidentiary hearing Eight
21 Point presented testimony that the turbines that were
22 proposed as the basis for the siting board's
23 certificate are no longer available, their
24 manufacturer and delivery having been ended in 2020.
25 Eight Point explained that when they were provided

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2 that information they searched for replacement
3 models. Importantly, the testimony demonstrated that
4 no reasonable alternative models now existed that
5 were both compatible with a certificate and the local
6 laws. In other words none under 600 feet in height.

7 Eight Point has so far identified two
8 turbine models that will serve the purposes to be
9 discussed in the amendment order both of which exceed
10 the -- the two town's local law height restrictions.
11 Importantly while Eight Point continues to evaluate
12 the available technology, there is no evidence in the
13 record that any existing turbine model that is also
14 compliant with the 600 foot height maximum can be
15 used to allow this project to be constructed and
16 operated under the existing certificate, making the
17 height restrictions unreasonably burdensome in view
18 of the existing technology.

19 Thus, we recommend that the siting
20 board allow the requested waivers the 600 foot height
21 restrictions in the Town of Greenwood amended Wind
22 Energy Facility Law, Local Law Number 1 of 2017,
23 Section 12B and the Town of West Union Wind Energy
24 Facility Law, Local Law Number 1 of 2017, Section
25 12B. In making this recommendation we note that the

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2 record also shows that both towns do not object to
3 the respective waivers. The record includes the
4 towns' representations of not objecting both in
5 written form, as letters that were marked as exhibits
6 during the evidentiary hearing, and in verbal
7 confirmation to Judge McClymonds and to me as well as
8 the parties from the attorney representing both
9 towns.

10 This confirmation was made during a
11 prehearing conference when the town's attorney asked
12 that he be excused for appearing at the hearing due
13 to a scheduling conflict. And he consented to our
14 putting the towns not objecting representation on
15 that hearing transcript. This concludes my
16 presentation and we are available for any questions
17 you may have.

18 CHAIR DESIGNEE MITCHELL: Thank you,
19 Judge Lecakes. We're going to move on to Ms.
20 Behnke's presentation and take questions and comments
21 on both presentations together. Ms. Behnke, please
22 begin.

23 MS. BEHNKE: Yes, good morning Chair
24 Designee Mitchell and members of the board. Before
25 you today is an order granting a petition for

1 14-F-0490, 16-F-0062, 16-F-0559 - Siting Board 5-26-2021
2 amendments of the board's August 20th, 2019 order
3 granting a certificate of environmental compatibility
4 and public need with conditions to Eight Point Wind,
5 L.L.C. As Mr. Lecakes noted, the certificate
6 approved a wind energy project consisting of up to 31
7 utility scale wind turbines with a capacity of up
8 101.8 megawatts to be located in the Town of
9 Greenwood and West Union in Steuben County.

10 On February 24th, 2021 Eight Point
11 filed a petition for amendment requesting approval to
12 modify certain project component locations and
13 install potentially fewer, 25 instead of 31, but
14 taller and more efficient turbines. Eight Point
15 proposes to increase the height for up to 19 size
16 megawatt turbines from 585 feet up to 656.1 feet. In
17 addition, Eight Point seeks approval to install 6
18 shorter 485.6 feet 2.5 megawatt turbines at locations
19 that were previously approved.

20 Eight Point also requested a change to
21 Certificate Condition 64 subsection C2 to account for
22 the slightly higher sound power level of the 19
23 proposed taller turbines. According to Eight Point,
24 approval of this amendment will require 20 turbines
25 to ship within a certificated turbine location to

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2 comply with Local Law Property Line Setback ... They
3 note the shift in layout are required to accommodate
4 access roads and collection lines that will result in
5 a reduction of 3.2 acres of access roads and 3.6
6 miles of collection lines.

7 On May 10th, 2021 Eight Point
8 submitted a letter to the secretary requesting that
9 the proposal in the amended petition be treated as an
10 alternative to the certified projects and not replace
11 it due to the fluid nature of the wind turbine market
12 and the need for increased optionality and
13 flexibility. Eight Point further requested that
14 instead of approving specific turbine models, any
15 certificate conditions simply imposed limits on
16 whatever turbines are ultimately chosen.

17 The secretary to the siting board
18 consulted with the Department of Public Service
19 staff, the Department of Environmental Conservation
20 and the Department of Health, and in a March 29th,
21 2021 letter concluded that the proposed modifications
22 would not result in a significant adverse increase to
23 environmental impact as compared to the certificated
24 project and therefore did not constitute a revision
25 that would require a hearing under the regulations.

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2 The secretary's letter included a
3 thorough review and addressed the potential impacts
4 of the proposed changes for the project related to
5 turbine height, plan use ... visual impact, shadow
6 flicker and noise which are summarized in the order
7 before you. The order before you recommends approval
8 of the amendment as an alternative to the
9 certificated project because the proposed
10 modifications do not constitute any significant
11 increases and adverse impacts compared to those
12 addressed in the certificated project.

13 If the order is approved, all of the
14 certificate conditions will remain applicable with
15 the exception of the elimination of the sound power
16 limits and Certificate Condition 64 subsection C2
17 which in keeping with recent board precedent should
18 not be required as Eight Point will be required to
19 adhere to all other conditions to adequately mitigate
20 noise impact.

21 The order also recommends approval for
22 Eight Point ... any option to construct and operate
23 the certificated project because the potential
24 impacts of the project were thoroughly reviewed and
25 addressed by the siting in the order granting the

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2 certificate and the certificate conditions provide
3 appropriate mitigation for identified adverse impact.
4 Finally the order denies approval of the request to
5 allow Eight Point the flexibility to -- to select
6 some other unspecified configuration of turbine
7 models and numbers because the potential impacts of
8 other types and sizes of models have not yet been
9 evaluated.

10 Accordingly, the order before you
11 approves the petition for amendment of the
12 certificate. That concludes my presentation and we
13 are available for questions you may have. Thank you.

14 CHAIR DESIGNEE MITCHELL: Thank you,
15 Ms. Behnke. I find that the amendment to the
16 certificate to allow for the construction of
17 potentially fewer but taller more efficient turbines
18 as an alternate alternative to the certified project
19 and the waiver of the two local laws as described
20 will not significantly increase adverse impact of the
21 project and are in the public interest in light of
22 the state of available technology and nature and
23 economic but reasonable alternatives. So I will be
24 voting in favor of the recommendation. I'll now turn
25 to my fellow board members for any questions or

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2 comments they may have. Mr. Alexander?

3 MR. ALEXANDER: I have no comments or
4 questions. Thank you.

5 CHAIR DESIGNEE MITCHELL: Thank you.
6 Dr. Lewis-Michl?

7 DR. LEWIS-MICHL: No comments or
8 questions. Thank you.

9 CHAIR DESIGNEE MITCHELL: Thank you.
10 Mr. Ravaschiere?

11 MR. RAVASCHIERE: No comments or
12 questions. Thank you.

13 CHAIR DESIGNEE MITCHELL: Thank you.
14 Mr. Williams?

15 MR. WILLIAMS: Thank you. No comments
16 or questions.

17 CHAIR DESIGNEE MITCHELL: Thank you.

18 I will now call for a vote on the order addressing
19 the request to waive local laws restricting the
20 height of wind towers. This is Tammy Mitchell and my
21 own vote is in favor of the recommendation as
22 described. Mr. Alexander, how do you vote?

23 MR. ALEXANDER: I vote in favor.

24 CHAIR DESIGNEE MITCHELL: Thank you.

25 Dr. Lewis-Michl?

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2 DR. LEWIS-MICHL: In favor.

3 CHAIR DESIGNEE MITCHELL: Thank you.

4 Mr. Ravaschiere?

5 MR. RAVASCHIERE: In favor.

6 CHAIR DESIGNEE MITCHELL: Thank you.

7 And Mr. Williams?

8 MR. WILLIAMS: In favor.

9 CHAIR DESIGNEE MITCHELL: Thank you.

10 The order is confirmed and the recommendation is
11 adopted. And now I will call for a vote on the order
12 concerning the request to amend the certificate.

13 This is Tammy Mitchell and my own vote is in favor of
14 the recommendation as described. Mr. Alexander, how
15 do you vote?

16 MR. ALEXANDER: My vote is in favor.

17 CHAIR DESIGNEE MITCHELL: Thank you.

18 Dr. Lewis-Michl?

19 DR. LEWIS-MICHL: In favor.

20 CHAIR DESIGNEE MITCHELL: Thank you.

21 Mr. Ravaschiere?

22 MR. RAVASCHIERE: In favor.

23 CHAIR DESIGNEE MITCHELL: Thank you.

24 And Mr. Williams?

25 MR. WILLIAMS: In favor.

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2 CHAIR DESIGNEE MITCHELL: Thank you.

3 The order is confirmed and the recommendation is
4 adopted. We'll now move to the final discussion
5 item, Case 14-F-0490, Application of Cassadaga Winds,
6 L.L.C. for a Certificate of Environmental
7 Compatibility and Public Need pursuant to Article 10
8 to construct a Wind Energy Project presented by
9 Cassandra Partyka, assistant counsel, Department of
10 Public Service, James McClymonds, chief
11 administrative law judge, Department of Environmental
12 Conservation, Dakin Lecakes, chief administrative law
13 judge, Department of Public Service and Robert
14 Rosenthal, general counsel are available for
15 questions. Ms. Partyka, please begin.

16 MS. PARTYKA: Good morning, Chair
17 Designee Mitchell and members of the board. Before
18 you today is an order granting a petition for
19 amendment of the board's January 17th, 2018 order
20 granting a certificate of environmental compatibility
21 and public need with conditions to Cassadaga Wind,
22 L.L.C.

23 The certificate approved a wind energy
24 project consisting of up to 48 utility scale wind
25 turbines with a capacity of up to 126 megawatts to be

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2 located in the Towns of Cherry Creek, Charlotte,
3 Arkwright and Stockton in Chautauqua County. On
4 January 29th, 2021 Cassadaga Wind filed the petition
5 for amendment requesting that the siting board
6 eliminate the long term sound limit contained in
7 Certificate Condition 80B and approve a revised sound
8 testing compliance protocol.

9 This order addresses the requested
10 amendment to Certificate Condition 80B only. The
11 revised sound testing compliance protocol as well as
12 the revised noise complaint resolution protocol are
13 being addressed in a separate compliance filing order
14 before the Public Service Commission. According to
15 Cassadaga Wind, the change is necessary because
16 Certificate Condition 80B requires the project to
17 comply with both short term sound limits and long
18 term annual sound limits.

19 Certificate Condition 71 and 72
20 require host construction sound monitoring to confirm
21 compliance with these limits. Cassadaga Wind asserts
22 that because the project will be required to comply
23 with the short term sound levels and be designed to
24 make the annual sound levels contained in the other
25 certificate conditions, the elimination of the annual

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2 regulatory sound limit will not result in a
3 substantial adverse change in noise levels.

4 Finally, this change would, according
5 to Cassadaga, make Certificate Condition 80
6 consistent with all other Article 10 wind generation
7 certificates issued by the siting board to date. The
8 secretary to the siting board consulted with the
9 Department of Public Service staff, the Department of
10 Environmental Conservation and the Department of
11 Health. And in a February 12th, 2021 letter
12 concluded that the proposed modification would not
13 result in a significant adverse increase to
14 environmental impacts as compared to the certificated
15 project and therefore do not constitute a provision
16 that would require a hearing under the regulation.

17 Moreover, as described in the order
18 before you, post construction sound monitoring
19 requirements for long term annual design goals have
20 not been included in any of the Eight Point
21 generation facilities certified by the siting board
22 since the Cassadaga Wind certificate was issued.
23 Since Cassadaga, the siting board has found no need
24 to impose a long term regulatory limit which it
25 determined would be impractical to enforce.

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2 Finally, the siting board has
3 previously determined that the short term regulatory
4 limits as well as the design limits imposed by the
5 certificate conditions to sufficiently minimize or
6 avoid noise impact to the maximum extent practicable.

7 Therefore, providing Cassadaga Wind
8 complies with these other certificate conditions on
9 noise, including the need for an improved sound
10 testing compliance protocol and complaint protocol
11 which, again, is being addressed in a separate
12 complied filing order by the commission, removing the
13 annual regulatory sound limit would not result in a
14 significant environmental impact.

15 Thus, the order before you recommends
16 approval of the secretary's determination that the
17 January 29th, 2021 petition for amendment to
18 Certificate Condition 80B of Cassadaga Wind, L.L.C.
19 does not constitute a revision because it would not
20 result in any significant adverse increase to
21 environmental impacts as compared to impacts
22 associated with the certificated project.

23 If the order is approved, Cassadaga
24 remains responsible for complying with the terms and
25 conditions included in the certificate order and

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2 related procedural requirements. The order also
3 recommends that the certificate of environmental
4 compatibility and need with conditions granted to
5 Cassadaga Wind, L.L.C. by order issued January 17th,
6 2018 be modified to grant the request made by
7 Cassadaga Wind in its January 29th, 2021 petition for
8 amendment to Certificate Condition 80B.

9 Accordingly, the order before you
10 approved the petition for amendment of the
11 certificate. That concludes my presentation, and I
12 am available for any questions that you may have.
13 Thank you.

14 CHAIR DESIGNEE MITCHELL: Thank you,
15 Ms. Partyka, once again for a clear and thoughtful
16 presentation. I agree with the recommendation to
17 amend the certificate to remove the annual regulatory
18 sound limit as it would not result in any significant
19 environmental impact, and I will be voting in favor.
20 I'll now turn to my fellow board members for any
21 comments or questions. Mr. Alexander?

22 MR. ALEXANDER: I have no comments or
23 questions. Thank you.

24 CHAIR DESIGNEE MITCHELL: Thank you.
25 Dr. Lewis-Michl?

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2 DR. LEWIS-MICHL: No comments or
3 questions.

4 CHAIR DESIGNEE MITCHELL: Thank you.
5 Mr. Ravaschiere?

6 MR. RAVASCHIERE: I have no comments
7 or questions. Thank you.

8 CHAIR DESIGNEE MITCHELL: Thank you.
9 Mr. Williams?

10 MR. WILLIAMS: Thank you. No comments
11 or questions.

12 CHAIR DESIGNEE MITCHELL: Thank you.
13 I will now call for a vote. This is Tammy Mitchell
14 and my vote is in favor. Mr. Alexander, how do you
15 vote?

16 MR. ALEXANDER: I vote in favor.

17 CHAIR DESIGNEE MITCHELL: Thank you.
18 Dr. Lewis-Michl?

19 DR. LEWIS-MICHL: In favor.

20 CHAIR DESIGNEE MITCHELL: Thank you.
21 Mr. Ravaschiere?

22 MR. RAVASCHIERE: In favor.

23 CHAIR DESIGNEE MITCHELL: And Mr.
24 Williams?

25 MR. WILLIAMS: In favor.

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2 CHAIR DESIGNEE MITCHELL: Thank you.

3 The item is approved and the recommendations are
4 adopted.

5 Secretary Phillips, is there anything
6 further to come before us today?

7 SECRETARY PHILLIPS: There is nothing
8 further to come before you today.

9 CHAIR DESIGNEE MITCHELL: Thank you
10 Secretary Phillips. We are adjourned.

11 (Off the record 10:32 a.m.)

12 (The proceeding concluded.)

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2 STATE OF NEW YORK

3 I, ANNETTE LAINSON, do hereby certify that the foregoing
4 was reported by me, in the cause, at the time and place,
5 as stated in the caption hereto, at Page 1 hereof; that
6 the foregoing typewritten transcription consisting of
7 pages 1 through 32, is a true record of all proceedings
8 had at the hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 27th day of May, 2021.

11

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13 ANNETTE LAINSON, Reporter

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