

AGENCY OF NATURAL RESOURCES (ANR) POLICY

WIND ENERGY AND OTHER RENEWABLE ENERGY DEVELOPMENT

ON ANR LANDS

December, 2004

Background and Purpose:

Vermont's energy needs are growing while its future energy sources remain uncertain. At the same time, Agency lands are under ever-increasing pressure to serve more uses and needs. Part of meeting Vermont's future energy needs will likely involve development of additional renewable energy sources in Vermont. The role of Agency of Natural Resource (ANR) lands in accommodating wind energy and other renewable energy projects has been the subject of recent public debate and is the focus of this policy.

Broad criteria for considering proposed new uses of ANR lands are outlined within the Agency's existing policy entitled "Uses of State Lands." These criteria are largely based on Agency and department mission statements, the degree of public interest that is being served, the level of impact on natural resources, and overall compatibility with established and accepted public uses. Although the "Uses of State Lands" policy provides an appropriate general framework for considering most uses of state lands, the Agency did not consider or anticipate the current interest in wind energy or other renewable energy development on ANR lands when it developed this policy in 1999. As a result, the "Uses of State Lands" policy by itself does not provide adequate guidance to the Agency on this emerging issue.

The purpose and intent of the Agency's policy on "Wind Energy and Other Renewable Energy Development on ANR Lands" is to provide specific guidance to the Agency regarding the use of state lands under its jurisdiction for development of renewable energy projects. The policy is intended to guide the use of ANR lands for both small-scale, renewable energy projects and large, industrial-scale projects such as commercial wind farms.

Scope:

It is important to note that the Agency's policy on "Wind Energy and Other Renewable Energy Development on ANR Lands" applies **only** to state-owned lands under the jurisdiction of the Agency. It is **not** intended to serve as an overall state policy on this issue. The policy does not apply to private lands in Vermont, nor is it meant to guide or influence renewable energy development on federally-owned lands in Vermont. Specifically, this policy is limited only to those lands held in fee-simple ownership by the state through the Agency and its three principal departments (Environmental Conservation, Fish and Wildlife, and Forests, Parks and Recreation). It is intended to apply to all such ANR lands, *regardless* of whether the lands are currently viable sites for wind or other renewable energy development.

The policy also does **not** apply to privately-owned lands where the Agency holds only a legal interest in the property. Examples include conservation easements held by the Agency on large tracts of private forestland, or public access rights on private property. In these cases, the need for policy guidance is unnecessary since the terms of the easement generally restrict such development from occurring.

Although wind energy development (particularly large-scale wind farms) was the major impetus for policy development, this policy extends to other renewable energy development on ANR lands as well, including solar, biomass, etc. Renewable energy development of any kind on ANR lands, both large and small-scale, is addressed in this policy.

This policy distinguishes between large-scale and small-scale renewable energy projects. For the purposes of this policy, large-scale renewable energy projects can generally be defined as those projects that directly disturb an area larger than one acre in size; have the potential to impact area wildlife, recreation and other natural resources; and would be visible from the surrounding area and/or would otherwise create significant visual impacts within the surrounding area. For the most part, large-scale renewable energy projects are designed and intended to generate electricity for commercial purposes. A commercial wind farm with multiple turbines would be an example of a large-scale renewable energy project as defined under this policy.

Small-scale renewable energy projects are limited to those projects that generally disturb less than one acre of land and do not significantly impact area wildlife, recreation, natural, or scenic resources. In contrast with large-scale renewable energy projects, small-scale projects are primarily intended to provide electricity for a specific facility (or group of facilities) and do not have a significant commercial component or benefit. Application of small-scale renewable energy projects would include net-metered facilities whereby consumers supply their own electricity through wind, solar, or other renewable sources, and the excess electricity is then “purchased” by the utility by allowing the meter to run in reverse when the facility produces energy in excess of site demands. Additionally, voluntary renewable purchase programs could also be developed for any excess electricity produced by such projects.

Regarding wind energy development in particular, small-scale wind energy projects typically involve a single wind turbine less than 120’ tall that generates less than 10kw of electricity. In contrast, large commercial-scale wind energy projects generally involve at least several wind turbines that can be over 300’ tall and are capable of generating up to 1.5 mw of electricity (about enough to meet the electrical demands of 500 households).

Agency Mission:

The Agency’s mission is to “protect, sustain, and enhance Vermont’s natural resources, for the benefit of this and future generations.” An increased focus on renewable energy sources in Vermont would reduce the environmental impacts of fossil fuel-based energy production and is broadly supported by the Agency’s mission statement. For many years, ANR lands have provided a renewable source of fuel wood for Vermont homes, businesses, and woodchip fired

electric generation plants. Until recently, however, ANR lands have not been considered as a potential site for the permanent development of a renewable energy facility.

The Agency's commitment to sound land stewardship is also reflected in its mission statement. As a landowner, the Agency's responsibility is to provide a high level of stewardship to the state lands under its jurisdiction to ensure important resource values are protected and managed in a sustainable and responsible manner in accord with the purposes for which the lands were acquired.

This commitment to sound land stewardship is reinforced through various legal restrictions (including deed restrictions, conservation easements, statutory requirements, or restrictions associated with federal or state funding sources) that effectively prohibit development of any kind on the vast majority of ANR lands. While many ANR facilities and associated lands may lend themselves to the development of small-scale renewable energy projects, there are presently only a few unrestricted ANR parcels where large-scale or commercial wind energy development could potentially be considered. However, additional parcels on lower elevation lands may some day become desirable sites for commercial scale renewable energy projects due to advances in technology and/or increases in the cost of non-renewable energy sources.

Policy:

Statutory authority for the Agency to develop policy for the proper and beneficial management and preservation of Vermont's natural resources is broadly set forth in Title 3, Ch. 51, § 2825 (a). Additional guidance and authority can be found in Title 10, Ch. 103, § 4081 for the Department of Fish and Wildlife, and in Title 10, Ch. 83, § 2601 for the Department of Forests, Parks and Recreation.

Consistent with this authority, ANR supports an increased focus on energy efficiency, conservation, and development of new renewable energy sources in Vermont. Such efforts are an essential part of a comprehensive strategy to reduce the environmental impacts of energy production. The Agency acknowledges such a focus would also provide important economic and energy security benefits to Vermont. The Agency believes that buildings, structures, and facilities located on Agency land can and should serve as models for energy conservation, energy efficient technology, and sustainable, renewable energy use. The Agency has made significant strides in this area, particularly at state parks, in developing new energy efficient bathhouses, restrooms, and other facilities. To further this effort, ANR will continue to emphasize and will actively explore implementing energy conservation measures, employing energy efficient technology, and developing small-scale renewable energy applications such as net-metered wind or solar generation systems and other renewable or clean energy technologies and programs as they become available at appropriate sites on ANR lands.

The Agency also recognizes the present interest in development of large, commercial or industrial-scale renewable energy projects in Vermont. While the development of such facilities at appropriate sites may well become a desirable and even necessary part of Vermont's energy future, the Agency believes that large-scale renewable energy development on ANR lands such as commercial wind farms would be incompatible with the uses of and contrary to purposes for

which ANR acquired these lands. Therefore, such uses are not allowed on ANR lands. Temporary wind measurement towers and other exploratory uses that are designed to evaluate the potential for future large-scale renewable energy development on ANR lands are also not allowed.

The Agency will continue to abide by all legal restrictions that may be associated with ANR lands to ensure they remain protected in accord with the purposes for which they were acquired. Regardless of whether there are legal restrictions present that would prohibit such development however, all state owned lands held in fee-simple ownership through the Agency of Natural Resources are unavailable for purposes of developing large-scale renewable energy projects. These lands include all state parks, state forests, wildlife management areas, and other miscellaneous ANR holdings.

This policy notwithstanding, unrestricted ANR lands should not be precluded from any comprehensive statewide assessment of potential wind and other renewable energy sites. If future information conclusively demonstrates that the most appropriate site(s) for large-scale wind energy or other renewable energy development in Vermont are on ANR lands and that the public interest will clearly be served by using these lands in such a manner, this policy may be revised. Ideally, such sites (if any) should be located on ANR lands that are already impacted by development or are located directly adjacent to development. Additionally, there are legislative options such as land exchanges that may be available for accommodating such use. Any such proposal would require substantial public support and ideally, should result in a net gain of conservation acreage coming into public ownership. The Agency's established long range management planning process for ANR lands is the appropriate mechanism for consideration of such proposals.

Rationale:

Public comment on this policy issue revealed a diversity of articulate and often passionate opinions regarding the possible use of state lands for wind energy development. While no policy could accommodate all these viewpoints, the Agency believes this policy both complements and is supported by the Agency's "Uses of State Lands" policy, and is well justified in light of the public comments received on this topic by the Agency as well as the mission statements and planning documents of the Agency and its departments.

Although public opinion on this issue is diverse, there is clearly much public support for energy conservation and renewable energy development in Vermont in general. Additionally, there is considerable public support for the Agency to take a leadership role in regard to renewable energy development. It is equally apparent that the public takes great pride in their state-owned lands and appreciates the conservation, recreation, and open space values they provide. Not surprisingly, many members of the public are wary of supporting development on ANR lands that would infringe on these values. This policy reflects both the general public support for renewable energy development in Vermont and specific public concern about developing Agency lands for large-scale renewable energy projects.

ANR's lands, particularly its high elevation lands most desirable for wind energy development, contain many important natural resources and are among the most sensitive and troublesome sites from a development perspective. Development of any type in these areas, if eventually deemed necessary, must proceed with utmost caution and care, and only after thorough study to understand potential impacts and how to resolve them.

With regard to commercial wind energy potential, only a very small portion of ANR lands (less than 1% of its current total holdings of 346,000 acres) presently contains a commercially viable wind resource and is not encumbered with legal restrictions prohibiting such development. Large-scale wind energy development in Vermont at this time is clearly not dependent on this small amount of state-owned acreage becoming available. There are ample private lands presently available for such purposes which should be thoroughly investigated before considering such use of ANR lands.

Finally, development of large-scale, commercial renewable energy projects on ANR lands falls outside the Agency's primary area of responsibility and may potentially conflict with the Agency's (and its departments') responsibility to hold land as a trustee for the benefit of all people of the state. State forests and state parks are held in trust by the Department of Forests, Parks and Recreation for public outdoor recreation and multiple use forest management purposes. Wildlife Management Areas and other Department of Fish and Wildlife lands are held in public trust for fish and wildlife habitat and public use. Neither department's statutory authority makes mention of encouraging or enabling the use of state lands for commercial development or for large-scale energy production.

Procedure for Implementation:

Small-Scale, Non-Commercial Renewable Energy Projects: The Agency shall actively encourage and promote development of small-scale, renewable energy applications in appropriate locations on ANR lands. (This includes ANR lands under long term lease to ski areas). The Agency can accomplish this through development of net-metered renewable energy projects on ANR lands and exploring voluntary purchase programs for surplus electricity generated on ANR lands. Regardless of how they are structured, such projects should be designed to help the Agency (or the Agency's lessees) meet on-site energy needs and provide clear economic and environmental benefits. The Agency's long range management planning process for ANR lands shall consider and encourage small-scale, renewable energy development where appropriate on state lands under its jurisdiction. Such projects will be pursued if there is demonstrated public support as evidenced through the planning process and will be designed and sited in such a manner as to minimize or eliminate any adverse environmental or aesthetic impacts.

Large-Scale Renewable Energy Projects: Large-scale renewable energy projects are not presently an allowable use of ANR lands as per Agency policy. In the event a future statewide assessment shows that the best site(s) for such projects are on ANR lands, then the Agency may consider revising this policy and to allow for consideration of individual projects through the pertinent long range management planning process.

Related ANR Policies:

- Vermont Agency of Natural Resources Policy on “Uses of State Lands”
- Vermont Agency of Natural Resources Policy on “Public Involvement in ANR Lands Management”

/s/ 12/13/04
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Commissioner, FPR

/s/ 12/14/04
Wayne Laroche Date
Commissioner, FW

/s/ 12/14/04
Jeffrey Wennberg Date
Commissioner, DEC

/s/ 12/10/04
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