

# Site 'as good as it gets', HNWD says

BY ANNE ADAMS • STAFF WRITER

MONTEREY— In a letter to Michael Murphy, DEQ director of environmental enhancement, Highland New Wind Development attorney John Flora asks DEQ to move ahead with its environmental review, and include a discussion of the positive benefits of wind energy in its report to the SCC.

Flora outlines several issues addressed by state agencies, and explains enough further information has been submitted by his client to warrant a completed report by the DEQ.

## Viewshed

“Viewshed concerns have been the source of most of the opposition to this project over the past four years,” Flora said, adding the issue was “hotly debated” as supervisors here considered HNWD’s request for a local conditional use permit.

Flora notes HNWD representatives, including owner H.T. “Mac” McBride, gave tours of the project site in order for officials to address viewshed concerns. In addition, he notes, HNWD has conditions attached to its permit including height limits (no more than 400 feet), set back limits, and screening, color, size and lighting.

Four state agencies requested visual impact studies to review how the height of the turbines would affect things like the Virginia birding trail, Camp Allegheny, the Civil War site, and the Laurel Fork viewshed.

“(HNWD) concedes that despite all the mitigation measures proffered and accepted by (supervisors), the wind turbines will be seen,” Flora says. “However, the location is ‘as good as it gets’ because it is remote and located in the only location with Class V winds in Highland County already ‘marred’ by a highway and a transmission line.”

Further, he argues, supervisors considered but did not require a viewshed analysis during the permit process, and “as you have seen in your visit to the site, a viewshed analysis is not a good use of resources when compared with the need to spend considerable resources on some of the wildlife issues, particularly ‘bat’ issues.”

Flora says there is no federal permit or federal funding needed with the project, and that the costs of a viewshed analysis for a remote location with a lack of structures in the vicinity, HNWD doesn’t believe one is “helpful or necessary.”

He continues, “In all candor and fairness, it should not be the position of the commonwealth that every concern of every agency or individual staff person within each agency (such as the ‘potential’ that a stream would someday become a ‘scenic river’) should au-

tomatically become a recommended demand for action by an applicant.

“Yes, this is the first wind farm in Virginia, but not by any means in this country or the world. More importantly, at the SCC there is a recognition that smaller projects (under 50 megawatts) should enjoy a streamlined process and the applicant believes that should be appropriate as well for DEQ.”

Flora cites state code limiting the SCC’s role after facilities have been considered by a local governing body. “Viewshed was thoroughly addressed by the Highland County Board of Supervisors and should not be addressed again in this process,” Flora states.

As to seeing turbines from Camp Allegheny, more than two miles from the closest turbine situated on Tamarack ridge, Flora describes it as accessed by a “dirt road full of potholes that in a normal winter is impassable due to snow and ice.” In the winter without foliage on the trees, he says, “you will not be able to look back and see any turbines when standing in the parking area ... If you proceed to the cannon location and the earthworks about one-half mile from the parking lot ... you could possibly see the top of one or two of the turbines from that spot about three miles away. From there, you can also look to the west and see the satellite dishes at Green Bank, approximately six miles away.”

Flora concludes, “In short, this is not Gettysburg. Very few people visit the site and even fewer venture over to the cannon site. For those who do, they will see wind turbines in the background.” In addition, he says, Monongahela National Forest material does not list the Civil War encampment in its section on “Special places in our forest.”

HNWD requested that if VDGIF, DHR and DCR “persist in their requests for a viewshed analysis” that DEQ delete that request from its report to the SCC.

## Birds and bats

In late March and early April, HNWD had both its avian experts, Dr. Paul Kerlinger and Dr. Scott Reynolds, meet with state agency representatives. Flora explained both meetings lasted better than two hours, and the experts provided summaries of their remaining pre-construction surveys. DGIF, he notes, critiqued their information in some detail, and “continued to insist on a spring radar study and a winter raptor survey.”

HNWD argues that avian issues “are new to VDGIF, but not to much of the rest of the world. Since one of the first large scale wind farms was built in this country 20 years ago in Altamont Pass, Calif., and significant bird kills, particularly raptors, occurred, hundreds of avian studies and assessments have been

undertaken and published.”

According to HNWD’s expert, wind turbines across the country, including in the Appalachian region, kill five birds per year per turbine. “The office building you work in probably kills more than five birds per year,” Flora wrote, adding the avian studies by HNWD, including the time spent by attorneys in the process, has already cost more than \$300,000. “The two additional studies requested ... will cost in excess of \$150,000,” he said.

HNWD believes the two additional studies would add any additional valuable information because Kerlinger doesn’t think a spring radar study or winter raptor survey will result in different conclusions. “These studies were designed and used to counter the theory posed by opponents to wind projects that birds migrate along ridge lines. All of the studies prove otherwise,” Flora said.

HNWD asks DEQ to report the disagreement between VDGIF and HNWD on the extra surveys, and then let the SCC decide after evidentiary hearings.

As for bats, Flora explained the developer has used one of the leading bat consulting firms in the country, and accepted its recommendation to conduct spring, summer and fall studies before construction. Even after meeting with state experts, Flora said, VDGIF “continued to insist on radar monitoring for bats and more acoustic monitoring than planned, together with two years of pre-construction studies instead of one.”

HNWD’s position is that since the large bat kill at the Mountaineer wind project in West Virginia, experts have been “working hard to understand the import of the concern and develop testing, deterrent and mitigation techniques. In short, this is not a mature field of study compared to the avian field,” Flora states. “(HNWD) concedes that bat behavior needs more study and prefers to spend its time and resources primarily on this issue, since on balance and in its opinion, the other issues being addressed are not serious issues that should prevent or delay the (project).”

HNWD does not believe radar bat monitoring is useful since it’s not sophisticated enough to distinguish between birds, bats and insects. “(HNWD) prefers to spend the \$65,000 cost of a second year of acoustic studies on post-construction work,” Flora wrote.

HNWD asks DEQ report the disagreement and then let the SCC decide.

## Northern flying squirrels

Flora says this endangered species was documented on the project property more than a decade ago, and HNWD hired Dr. Edwin Michaels to take a look. Michaels, Flora said, found no squirrels or appropriate habitat on

the 217 acres meant for development. The places where squirrels were found 10 years ago is more than half a mile from the project site, he said. "(HNWD) is not planning to study squirrels any further and there is no pending request for more information on this matter," he states. The same is true, he added, for rock voles and water shrews, also endangered species.

Nor does the company plan to study Laurel Fork further, Flora said, because the directional drilling used under the stream to connect the two turbine groups with transmission line, will have no direct impact.

### ***Department of Historic Resources***

Virginia's DHR had asked for further information and an archaeological survey of the project site. Flora says after submitting a preliminary site plan, no further requests have been made by the agency. "(HNWD) assumes that the minimal ground disturbing activity on the project site, which has been and will continue to be a cow pasture, has allayed concerns about the need for an archaeological survey." He said HNWD paid DHR's costs in 2003 and 2005 for conducting an archive search to identify historic resources nearby. "The turbines will not be seen from any of the three reported sites, which is obvious to those that have visited the area," Flora said, adding the company believes nothing further should be required.

### ***Butterfly inventory***

The DCR asked for an inventory of five butterflies, three stream animals, a squirrel, rock vole and a variety of birds and bats. HNWD again claims Laurel Fork will not be disturbed, and says that according to the VDGIF, the butterflies aren't likely to be at the site because it's not a natural meadow. HNWD, therefore, believes no additional information is needed, Flora said.

### ***U.S. Army Corps of Engineers***

About three weeks ago, Flora says, Corps representative James Brogden, along with DEQ's Eric Mallard, reviewed the wetland delineation and proposed stream crossing for the transmission line at the project site. Flora says their determination is that no permit will be required, and therefore, there will be no federal jurisdiction for the project.

### ***Be positive***

Flora says there is nothing in Virginia law that requires an environmental review to be restricted to negative impacts. "Global warming, acid rain and coal mining are all significant environmental problems exacerbated by the ever-increasing need to provide electricity with fossil fuel," he writes. "Wind generated electricity does not add to these problems ... One of the issues in the environmental impact review field has been the demand by regulatory agencies for cumulative reviews of air

quality, water quality and now birds and bats. What about the positive cumulative impact of wind energy? No agency has asked for this information, but it is available."

HNWD asks DEQ to provide information in its report to the SCC about positive impacts of its project.