

STATE OF VERMONT

SUPERIOR COURT  
Orleans Unit

CIVIL DIVISION  
Docket No. \_\_\_\_\_

GREEN MOUNTAIN POWER )  
CORPORATION, )  
Plaintiff, )  
 )  
v. )  
 )  
DONALD AND SHIRLEY )  
NELSON, )  
Defendants. )

AFFIDAVIT OF PAUL HANNAN

NOW COMES Paul Hannan, upon oath, and deposes and states as follows:

1. I am a Vermont-licensed surveyor.
2. Between December, 2010 and June, 2011 I surveyed boundary evidence along the range line that exists between property owned by Don and Shirley Nelson along the northwest boundary of their Lot 8 range 2 property on Lowell Mountain which boundary they share in common with property owned by Ben C. ("Trip") Wileman.
3. I am generally familiar with the property in that area because I have also conducted a survey for Peter Mygatt, a neighbor of the Nelsons whose property abuts their Lot 8 range 2 parcel on the north.
4. I am aware that other surveyors, including Norbert Blais, have surveyed other properties in that area including some of the boundary lines that I also have surveyed.
5. The Lot 8 range 2 parcel which is part of the Nelsons 600+ acre farm lies along range lines 2 and 3 as those ranges and lots were set out historically when the parcels were first given separate identity by the 19<sup>th</sup> century original proprietors of the Town of Lowell (initially

EXHIBIT 1

chartered as “Kellyvale”).

6. In Vermont range lines were run by the first surveyors as straight lines. Because they are long standing and historical indications of ownership boundaries, the range lines can best be retraced by markings and monuments on the ground including but not limited to stone walls and fences, wire, historical tree cutting and similar indications of long-standing use, occupation and acquiescence to a line.

7. I was able to identify evidence of the range 2-3 line beginning with Lot 1 at the southerly end and extending to Lot 13 at the northerly end, and I have gathered survey-grade GPS positional data on this evidence from each direction along 4 miles of this range line in order to analyze and assess the integrity of the evidence. Specifically, the range 2-3 line along the boundary between lots 1 and 2 provided good evidence of use and occupation in the form of differing tree harvesting patterns, remnant wire fencing, old and newer corner monuments and older blazed trees. Along the range 2-3 boundary between lots 12 and 13 to the north evidence included extensive stone walls, remnant wire fencing, differing tree harvesting patterns, old and newer corner monuments and older blazed trees. Most of the evidence between lots 2 and 12, where it existed, was rejected as being recently created and/or the result of boundary agreements, thus not acceptable for retracing the original range line. It is settled Vermont law that range lines run straight and that where lines cannot be ascertained on the ground location is determined by extending range lines from points where the actual location can be ascertained. (See Vermont Survey Law – A Compendium of Vermont Jurisprudential Standards Re: Surveys, Surveyors, & Boundary Locations published by the Vermont Society of Land Surveyors. See also: *Heath v. Dudley*, 148 Vt. 145, 148 (Vt. 1987) and *J. H. Silsby & Co. v. Kinsley*, 89 Vt. 263, 270 (Vt.

1915) My opinion of the correct location of the range 2-3 line is based on computing a “best fit” line connecting well established evidence on Lots 1,2,12 and 13.

8. Based on the understanding and belief that virtually all deeds of conveyance along this range line derive their descriptions from historic reference to the range line, and as a result of assessment and analysis of the aforementioned evidence of the range 2-3 line, I am able to locate that range line in relation to the western boundary of the Nelsons’ Lot 8 in range 2 within positional tolerances required by Board Standards for “Rural Lands” or better.

9. The Nelsons’ Lot 8 range 2 parcel shares a common boundary with property owned by Ben C. (“Trip”) Wileman that I understand has been leased to Green Mountain Power Corporation. The boundary is at points close to the ridge line of the mountain which is a generally northerly/southerly ridge line that cuts at a slight angle through the range 2-3 line.

10. I have completed a survey of the lot to the north of the Nelsons’ Lot 8 which is the Mygatt lot also identified as Lot 9 in the second range and I have sufficient information to locate the historic range 2-3 line in relation to the Nelsons’ Lot 8 in the second range.

11. I have determined from my survey that the historic boundary line was located farther to the northwest – that is, onto the Wileman side of the two properties than the boundary that Wileman and Green Mountain Power have been using in connection with Green Mountain Power’s wind turbine construction project.

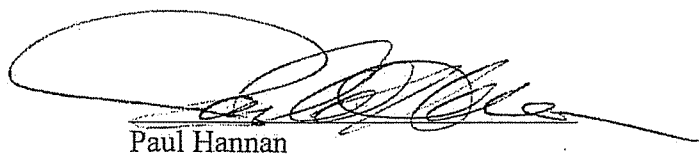
12. I have determined that at the southwest corner of Nelsons’ Lot 8 which is also the southeast corner of the Wileman’s lot 8 that the true and correct boundary is 181 feet to the northwest of the point now being used as the boundary by Green Mountain Power and at the

northwest corner of the Nelson lot 8 which is also the northeast corner of the Wielman lot 8, the true and correct boundary is 156 feet northwesterly of the line being used by Green Mountain Power as depicted on survey maps entitled "Boundary Survey of Property Located in Lowell, Vermont Being Property of Peter B. Mygatt & Deborah H. Mygatt Prepared for Green Mountain Power" (Blais Map No. 189-09A) and "Plan of Land Located in Lowell, Vermont Prepared for Ben C. Wileman, III" (Blais Map No. 195-01).

13. The divergence between the boundary being used by Green Mountain Power and the actual true boundary of the Nelson land varies from south to north from 181 feet to the west to 156 feet to the west along a straight line so that there is a slight convergence of the two boundary lines as described.

14. I have examined plans showing the "crane path" so-called and where the different turbine towers will be located as depicted on maps prepared by Green Mountain Power and posted on the "Kingdom Community Wind" website and can infer that blasting will occur near the ridge line of the mountains.

15. I have been able to determine using GPS coordinates, scaling plans and other documentation that a portion of the "crane path" so-called is positioned on the Nelson property. This path appears to mark an area that Green Mountain Power will be blasting in order to create a pathway to be used by equipment to reach the various towers. And I have further determined that the base of two towers (T5 and T6) as depicted on the above mentioned Green Mountain Power plans are likely less than 100 feet from the range 2-3 line called for as Nelson's boundary in this area, suggesting that the rotor blades of those towers will extend easterly onto Nelson property air-space. (See accompanying GIS map exhibit.)



Paul Hannan

STATE OF VERMONT  
COUNTY OF Washington, SS.

At Calais, in said County, this 19 day of October, 2011, personally appeared Paul Hannan, under oath, and he swore to the truth of the foregoing.

Before me, *Sonoma E. Fitch*  
Notary Public

My Commission Expires: 2/10/15