

STATE OF VERMONT

SUPERIOR COURT  
Orleans Unit

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

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

**AMENDED COUNTERCLAIM OF DONALD AND SHIRLEY NELSON**

Donald and Shirley Nelson (Nelsons) hereby state their counterclaim against Green Mountain Power Corporation (GMP) as follows:

1. The Nelsons are the owners of property in Lowell, Vermont which has been in their family for generations.
2. GMP has leased land that abuts the property of the Nelsons along a common boundary. GMP is in the process of constructing 21 wind turbines and related infrastructure along a ridge line that is partially on the land leased by GMP and partially on land owned by the Nelsons.
3. The Nelsons have provided GMP with the results of a survey of their land and have requested that GMP discontinue activities that will violate the Nelsons use and enjoyment of their land and, specifically, that GMP refrain from trespassing upon the land of the Nelsons by continuing with their construction activities, but GMP has ignored and disregarded the Nelsons' requests.

4. GMP intends to conduct blasting activities along the ridge line which includes land belonging to the Nelsons, and such blasting activities will irreparably change and alter the land and irreparably damage the Nelsons' property.

5. GMP has already used contractors to clear cut a swath of land that is located on the Nelsons' property in violation of the Nelsons' property rights.

6. GMP's intended conduct in blasting along the ridge line will foreseeably and predictably cause blast debris, including fly-rock, to be cast upon defendants' land.

7. Such conduct is in violation of GMP's certificate of public good and of the performance standards for blasting that are incorporated therein and binding upon GMP.

8. GMP's actions in conducting blasting activities along the ridge is interfering with the defendants' use and enjoyment of their land and is a violation of their property rights.

9. In connection with its wind turbine project, GMP has made clear its interest and desire to purchase the Nelsons' land.

10. GMP has engaged in a course of conduct designed to threaten and intimidate the Nelsons to coerce them into selling their land to GMP.

11. If GMP were successful in obtaining title to the Nelsons' land, they would eliminate the trespass that they are committing along the ridge line near the common boundary of the two properties and would eliminate the trespass and nuisance they will be committing when they blast along the ridge line and cast debris and fly-rock onto the defendants' land.

12. If GMP were to buy the Nelsons' property, they would have the ability to use the Nelsons' land as potential mitigation acres in furtherance of their wind turbine project.

13. In furtherance of their plan and desire to acquire the Nelsons' land, GMP engaged

in deceptive and duplicitous conduct by attempting to use a Vermont non-profit land trust to serve as the front party to acquire the property from the Nelsons without disclosing to the Nelsons that the non-profit was acting in concert with and at the behest of GMP.

14. The details of this plan were disclosed by the non-profit to the Nelsons in the interest of full disclosure before any acquisition was completed, and the planned purchase fell through.

15. GMP has continued to pursue its efforts to force the Nelsons to sell GMP their land, and has made a purchase offer to the Nelsons which reflects the diminished value of the Nelsons' property due to the presence of the GMP wind turbine project next door.

16. GMP made their purchase offer to the Nelsons at a time when the Nelsons were actively opposing the granting of the permit to GMP and objecting to GMP's conduct on the project site.

17. On October 11, 2011, in a further effort to coerce the Nelsons to sell GMP their property, GMP, acting through its counsel, wrote a letter to the Nelsons in which it warned the Nelsons that the Nelsons' conduct as alleged by GMP constituted the tortious interference with GMP's contract with its blasting contractor and would constitute a nuisance which had the potential to cost GMP more than a million dollars in damages for which the Nelsons would be liable.

18. This letter was extremely upsetting and alarming to the Nelsons and has caused the Nelsons enormous anxiety and emotional, physical and psychological distress.

19. The Nelsons reached the point where they felt their only option was to sell their property to GMP to avoid the enormous liability exposure that GMP was threatening against

them, but they were deeply offended by the wrongful conduct of GMP and decided to challenge GMP's actions rather than capitulate to the pressure.

**COUNT I – TRESPASS AND NUISANCE:**

20. The allegations of Paragraphs 1-19 of this counterclaim are incorporated herein by reference.

21. GMP's conduct constitutes a knowing, wilful and intentional trespass on the lands and property of the Nelsons and creates a nuisance.

**COUNT II – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS:**

22. The allegations of Paragraphs 1-21 of this counterclaim are incorporated herein by reference.

23. GMP's conduct in threatening the Nelsons with more than a million dollars of liability damages in an effort to coerce the Nelsons into selling GMP their property and to dissuade the Nelsons from exercising their rights as landowners to use, enjoy and occupy their property, constitutes the intentional infliction of emotional distress for which GMP is liable for compensatory and punitive damages.

**COUNT 3 INJUNCTIVE AND DECLARATORY RELIEF**

24. The allegations of Paragraphs 1-23 of this counterclaim are incorporated herein by reference.

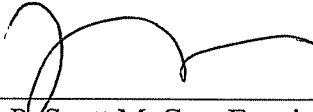
25. The Nelsons are entitled to injunctive and declaratory relief establishing their common boundary with the owner of the land now being leased by GMP and prohibiting GMP from trespassing on the Nelsons' land either directly or by casting blast debris upon it.

WHEREFORE the Nelsons request declaratory and injunctive relief and damages against

GMP, including compensation and punitive damages and attorneys fees.

Dated at Hartford, Vermont this 17 day of October, 2011.

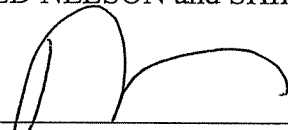
DONALD NELSON and SHIRLEY NELSON

By:   
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(802) 295-2800

**JURY DEMAND**

The Nelsons demand trial by jury of all issues triable by a jury.

DONALD NELSON and SHIRLEY NELSON

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