

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WYOMING

CLEAR SKIES OVER ORANGEVILLE

Petitioner,

AFFIDAVIT

v.

Index No: 42273

TOWN BOARD OF THE
TOWN OF ORANGEVILLE, and
SUSAN MAY, HANS BOXLER, JR., JAMES HERMAN,
ANDREW FLINT, and TOM SCHABLOSKI, in their
capacities as town board members,

Respondents.

STATE OF NEW YORK, COUNTY OF WYOMING) SS.:

JAMES HERMAN, being duly sworn, deposes and says:

1. The information herein is based on my personal knowledge and I am competent to testify.
2. I am a member of the Town Board of the Town of Orangeville.
3. As a Town Board, we carefully examined each and every one of the WCPB's fifty-seven comments in its "Referral Response." The attention and energy invested in this analysis was extraordinary.
4. The Town never received an application, petition or request to amend the zoning law. Rather, the Town acted on its own initiative to amend its pre-existing zoning law, which was initially adopted in 1964.
5. The Town recognized that it was in an exposed position with an outdated ordinance that lacked adequate regulatory controls to deal with any potential influx of wind turbine projects.

6. Both Stony Creek and the Town Board vigilantly explored any possible conflict, and one board member (Councilman Tom Schabloski) was determined to have an “interest” within the broadest sense of the term. He recused himself from working on the zoning law, and the conflict was disclosed.

7. Neither I nor any member of my family has entered into a wind lease agreement, or any other agreement, or otherwise has an interest in the Stony Creek project. I did sell a piece of my property to another alternative energy company, Noble Environmental Power, on which it built a substation to serve another community. This transaction was unrelated to the Stony Creek Wind Farm.

8. I impartially worked and voted on the amended zoning law.

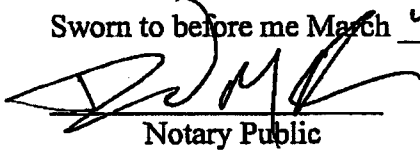
9. Regarding the amended zoning law, I carried out my official duties free of any conflict, including any conflicts arising out of a direct or indirect financial, business, commercial or other private transactions.

10. At no time was I directly or indirectly involved in any transaction of any kind that in any way compromised my ability work and vote on the amended zoning law.



JAMES HERMAN

Sworn to before me March 4, 2010



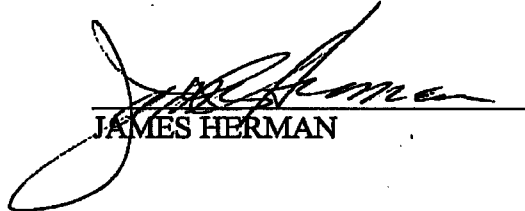
Notary Public

DAVID M. ROACH
Notary Public, State of New York
No. 02RO6195247
Qualified in Wyoming County
Commission Expires 10/20/2012

VERIFICATION

STATE OF NEW YORK, COUNTY OF WYOMING)SS.:

JAMES HERMAN, being duly sworn, deposes and says that deponent is the respondent in this action and has read this affidavit; deponent knows its content and knows that it is true to the best of deponent's knowledge, except as to those matters stated to be upon information and belief, and as to those matters deponent believes them to be true.



JAMES HERMAN