

STATE OF NORTH CAROLINA  
COUNTY OF PERQUIMANS

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
15 EHR 07012

STEPHEN E. OWENS and JILLIAN G.  
BADAWI,

Petitioners,

v.

NORTH CAROLINA DEPARTMENT  
OF ENVIRONMENT AND NATURAL  
RESOURCES, DIVISION OF ENERGY  
MINERAL AND LAND RESOURCES,

Respondent.

**WEYERHAEUSER COMPANY'S MOTION  
TO INTERVENE**

Pursuant to North Carolina General Statutes § 150B-23(d) and Rule 24 of the North Carolina Rules of Civil Procedure, Weyerhaeuser Company (“Weyerhaeuser”) submits this motion to intervene in the above-captioned contested case in which petitioners, Stephen E. Owens and Jillian G. Badawi (collectively, “Petitioners”), challenge the April 29, 2015 decision made by the North Carolina Department of Environmental Quality (“NCDEQ”),<sup>1</sup> Division of Energy, Mineral and Land Resources that a wind project being developed by Atlantic Wind, LLC, an affiliate of Iberdrola Renewables, on land partially owned by Weyerhaeuser is not subject to the permitting requirements of N.C. Session Law 2013-51, An Act to Establish a Permitting Program for the Siting and Operation of Wind Energy Facilities, codified at N.C. Gen. Stat. §§ 143-215.115, *et seq.*

Weyerhaeuser seeks to intervene as a respondent-intervenor to oppose Petitioners and to be conferred all of the rights of a party to participate fully in all aspects of the above-captioned contested case. Pursuant to N.C. R. Civ. P. 24(a)(2), Weyerhaeuser requests intervention as a

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<sup>1</sup> Effective September 18, 2015, the North Carolina Department of Environment and Natural Resources was renamed the North Carolina Department of Environmental Quality.

matter of right. In the alternative, pursuant to N.C. R. C. P. 24(b)(2) or N.C. Gen. Stat. § 150B-23(d), respectively, Weyerhaeuser requests permissive intervention or intervention to the extent deemed appropriate. Counsel for Petitioners have indicated that Petitioners oppose Weyerhaeuser's motion to intervene; counsel for NCDEQ has indicated that NCDEQ does not object to the motion.

In support of this Motion, Weyerhaeuser relies on the attached Memorandum of Law and on the Affidavit of Aaron Welch. A proposed order granting this Motion is also filed herewith.

Respectfully submitted this 22<sup>nd</sup> day of February, 2016.

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP



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*Attorneys for Weyerhaeuser Company*

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing **MOTION TO INTERVENE** has been served this day by depositing a copy thereof in the United States mail, postage prepaid and addressed as follows:

Mr. Elliot Engstrom  
Civitas Institute Center for Law and Freedom  
100 South Harrington Street  
Raleigh, NC 27603  
*Attorney for Petitioners*

Mr. David W. Schnare  
722 12<sup>th</sup> Steet, NW  
Washington, D.C. 20005  
*Attorney for Petitioners*

Mr. Asher P. Spiller  
Assistant Attorney General  
North Carolina Department of Justice  
9001 Mail Service Center  
Raleigh, NC 27699-9001  
*Attorney for Respondent*

Mr. Sam M. Hayes  
NCDEQ General Counsel  
1601 Mail Service Center  
Raleigh, NC 27699-1601

This the 22<sup>nd</sup> day of February, 2016.



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**AFFIDAVIT OF AARON WELCH**

Before me personally appeared Aaron Welch, who first being duly sworn, deposed and said the following:

1. My name is Aaron Welch. I am over 21 years of age and am competent to testify to the matters herein.
2. I have been employed by Weyerhaeuser Company since 1999. My current position is Manager of Weyerhaeuser's Timberlands Business in the North Carolina Region.
3. As Region Manager, I am responsible for nearly all business operations on approximately 575,000 acres of timberland owned and managed by the company in North Carolina.
4. Through my work with Weyerhaeuser Company, I am personally familiar with the Desert Wind Project.
5. Weyerhaeuser is itself a producer of green energy at our manufacturing facilities, and we have leased land for production of renewable energy not only in North Carolina but in other states in which we own land.


6. The Desert Wind Project is being developed on approximately 22,000 acres of land in Perquimans and Pasquotank Counties. Weyerhaeuser owns approximately 2,938 acres of this land, which we have leased for the Desert Wind Project to Atlantic Wind, LLC.

7. Atlantic Wind, LLC, an affiliate of Iberdrola Renewables, began construction of the Desert Wind Project in the summer of 2015.

8. In connection with the Desert Wind Project, it is estimated that Atlantic Wind will pay more than \$275,000 per year in lease rental payments to Weyerhaeuser. It is anticipated that this revenue source will increase each year.

9. Weyerhaeuser expects that projects such as the Desert Wind Project will provide an additional stream of revenue with minimal impact on its core business activities of managing timberlands to produce timber and other forest products.

Further this affiant sayeth not.



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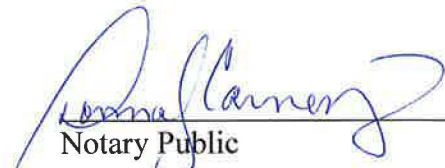
Aaron Welch

STATE OF MISSISSIPPI

COUNTY OF PIKE

BEFORE ME personally appeared Aaron Welch who being first duly sworn stated that the statements he made in the foregoing Affidavit above were true and correct, and subscribed those statements.

WITNESS my hand and official seal, this the 19th day of February, 2016.

  
\_\_\_\_\_  
Notary Public  
DONNA J. CARNEY  
\_\_\_\_\_  
Printed Name

My Commission expires: 2/26/2016  


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**ORDER GRANTING MOTION TO  
INTERVENE**

THIS MATTER is before the Court on Weyerhaeuser Company's Motion to Intervene brought pursuant to North Carolina General Statutes § 150B-23(d) and Rule 24 of the North Carolina Rules of Civil Procedure.

The Court, having found that Weyerhaeuser Company (Movant) has satisfied the prerequisites for intervention of right pursuant to N.C. R. Civ. P. 24(a)(2) or, in the alternative, the grounds for permissive intervention pursuant to N.C. R. Civ. P. 24(b)(2) or discretionary intervention pursuant to N.C. Gen. Stat. § 150B-23(d), hereby orders that Movant's request to intervene is GRANTED. Movant is allowed to intervene in this contested case and to participate in all aspects of the proceeding with all of the rights of a party thereto.

IT IS SO ORDERED, this the \_\_\_\_\_ day of February, 2016.

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Melissa Owens Lassiter  
Administrative Law Judge