

From: Beling, John
Sent: Wednesday, June 06, 2012 12:02 PM
To: MacLean, Alex
CC: Miller, Elizabeth
Subject: Local Labor letter
Attachments: 20120312 Van Deusen Letter.pdf

Alex, Liz asked that I send this to you. Let me know if you have any questions.

John Beling
Director
Department of Public Service
Public Advocacy Division
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March 12, 2012

David Van Deusen
Vermont Sierra Club
149 State Street
Montpelier, Vermont 05602

Re: Local Jobs for Renewable Energy Projects

Dear David:

I am writing to follow up on our meeting regarding the use of local labor in the construction of renewable energy projects. We believe there is a means that will serve to ensure an appropriate level of local labor participation under existing law.

As we discussed, there are potential problems with setting quotas for or otherwise favoring local labor, most notably, any such law or laws could be challenged under the Dormant Commerce Clause and/or the Privileges and Immunities Clause of the United States Constitution. We believe that there is an approach under existing state law that would eliminate the need to draft legislation that would be subject to such challenge.

The siting statute for renewable energy projects, 30 V.S.A. § 248, requires developers of most such projects to demonstrate that the project "will result in an economic benefit to the state and its residents." 30 V.S.A. § 248(b)(4). The provision does not apply to smaller projects, but must be considered in any of the larger projects, such as the Kingdom Community Wind or Sheffield Wind Projects.

Importantly, developers of these projects will often represent that the project will produce local jobs, particularly during the construction phase. In preparing its analysis of these projects, the Department will factor in these jobs and their impact on the local and State economy. It is only fitting that the developers follow through on those promises.

Going forward, we believe that it is appropriate to include as a condition in the Certificates of Public Good for these projects that the developer make best efforts to use local labor, and this office will advocate including such a condition in the CPGs for such projects. The developer would be required to submit a report to the Board, subject to review by the Department, describing the amount of local labor hired for the project, and the steps taken to reach out to and hire local workers. There would likely need to be an exception for certain specialized jobs, and the developer would bear the burden of demonstrating which jobs fit into



that category and the efforts made to locate local workers who have the requisite skills to perform those jobs.

By focusing on the existing criteria, we believe that the goal of maximizing the amount of local labor utilized in building these projects can be accomplished, without resort to legislation that could face serious challenges. We look forward to hearing from you as we move forward in this regard. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'John D. Beling', with a stylized, flowing script.

John D. Beling
Director for Public Advocacy

cc: Michael Morelli