

STATE OF VERMONT
District Environmental Commission #8
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88 Merchants Row
Rutland, VT 05701
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February 17, 2011

Progress Partners, LTD. VT
c/o Frank Cantatore
158 Westmoreland Avenue
White Plains, NY 10606

**Subject: Jurisdictional Opinion # 8-254; Solar facility at Green Mt Energy Park,
Pownal, VT**

Dear Mr. Cantatore:

I. Summary of Opinion

I have concluded that your solar facility is exempt from further Act 250 review because it has received a certificate of public good from the Vermont Public Service Board ("PSB").

II. Facts and Analysis

EOS Ventures, LLC requested a Certificate of Public Good under 30 V.S.A. § 248 to install and operate a 2.2-MW solar electric generation facility located at the Southern Vermont Energy Park on Route 7 in Pownal, Vermont.

On September 8, 2010, the PSB approved Order #7618, stating, "The proposed installation and operation of a 2.2 MW solar electric generation facility by EOS Ventures, LLC in Pownal, Vermont, will promote the general good of the State of Vermont in accordance with 30 V.S.A. Section 248, and a certificate of public good to that effect shall be issued..."

Act 250 has jurisdiction over "developments," which are defined, in part, as "the construction of improvements for commercial or industrial purposes" on more than 10 acres of land. 10 V.S.A. §6001 (3)(A)(i) and(ii). Exempt from the definition of "development" is the "construction of improvements for an electric generation or transmission facility that requires a certificate of public good under 30V.S.A. §248... ." 10 V.S.A. 6001 (3)(D)(ii). Therefore, since the PSB has taken jurisdiction over this project pursuant to Section 248 and issued a certificate of public good, Act 250 jurisdiction is precluded.

III. Conclusion

There is no Act 250 jurisdiction over the solar facility at the Green Mt Energy Park in Pownal.

IV. Reconsideration or Appeal

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(A).

Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address within 30 days of the date of this opinion.

Any **appeal** of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431 and the 5% surcharge required by 32 V.S.A. § 1434a(a), which is \$262.50 as of January 2011.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Center Building, Montpelier, VT 05620-3201, and on other parties in accordance with VRECP 5(b)(4)(B).

For additional information on filing appeals, see the Court's website at: <http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 828-1660. The Court's mailing address is: Superior Court, Environmental Division, 2418 Airport Road, Suite 1, Barre, VT 05641-8701.

Sincerely,

/s/ Warren E. Foster
Warren E. Foster
District Coordinator

c: Certificate of Service