

New York State Department of Environmental Conservation



Division of Environmental Permits, 4th Floor

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January 4, 2006

Richard A. Jacks, Supervisor
Town of Warren
544 Kingdom Road
Mohawk, NY 13407

**Re: Jordanville Wind Power Project, Community Energy
State Highway 167, County Highways 18 and 116
Town of Warren and Town of Stark, Herkimer County, NY**

Dear Mr. Jacks;

The New York State Department of Environmental Conservation (Department) staff have performed an initial review of the information and material provided with the Town of Warren's December, 9, 2005 Notice of Intent to Act as Lead agency. These materials include the Full Environmental Assessment Form (EAF), Exhibit 2, Participating Landowners, and Exhibit 3, Proposed Project Layout, both dated 11/14/05. The project is described as a 150 megawatt (MW) wind farm consisting of 60 to 68 wind turbines (each either 2.0 or 2.5 MW in capacity), an 80 meter meteorological tower, 18 miles of access roads, 40 miles of underground electric line and a substation located off state Highway 168 in the Town Stark.

Please be advised the Department does not object to the Town Board of the Town of Warren assuming the role of lead agency, but the Department does reserve the right to comment on this action if a positive determination is made. As indicated in the following text of this letter, Department staff have concerns for the potential impacts of certain aspects of this project, and the Department strongly urges the Town to require the preparation of an environmental impact statement (EIS) for the project. The comments provided below are in support of that recommendation. Here, the Department offers general comments on why the project warrants a full environmental review, and any detailed comments regarding recommended studies will be reserved until the scoping phase of the EIS process, should one be required.

1) **Lead Agency.** Based on the information provided with your notice the Department has determined it is appropriate for a local municipality to assume lead agency. Since the Department may have limited jurisdiction (see below), and since the majority of potential impacts are primarily local in nature, it is appropriate for another involved agency with local land use powers to serve as the lead agency.

2) **Department Jurisdiction.** Based on the information provided with the EAF, it appears the potential authorizations required from the Department may include an Article 24 Freshwater Wetlands permit. However, the actual breadth of the Department's jurisdiction can not be determined definitively until the location of the turbines, access roads, electrical interconnection lines, construction laydown areas, etc. are fully described. Depending on the final site design, additional approvals such as a Clean Water Act Section 401 Water Quality Certification, and/or an Article 15 Stream Disturbance permit maybe required. In addition, an additional approval will be required to discharge stormwater during the construction of the facility, but this approval is administered as a general permit under the State Pollutant Discharge Elimination System (SPDES) program (SPDES General Permit for Stormwater Discharges from Construction Activities GP-02-01).

3) **Project Impacts.** The preparation of an EIS should be required in order for the applicants to fully describe the area to be affected by both portions of the project. The Department would anticipate that the information regarding the affected environment would include both historical information on the potential sites and new information collected specifically for the Project. This new site specific information should include surveys and data collection on both the Project area and any identified alternatives. Based on experience with existing and proposed wind farms the following impacts are of primary concern to the Department:

a) **Bird and Bat Impacts.** The Department received a copy of the *Jordanville Wind Farm Avian and Bat Plan* dated March 24, 2005, but have not been provided with the results of any studies conducted. Department staff would encourage the project sponsor to set up a meeting in the near future to discuss the results of any such studies conducted for this project. The DEIS should include the analysis conducted to describe, and to address, potential impacts to birds and bats. If birds or bats will be adversely impacted by the project, appropriate mitigation strategies will need to be evaluated.

b) **Visual Impacts.** The project description provided indicates the height of each turbine will be approximately 400 feet tall when the blades are at their apex. The height of each structure creates potential visual impacts to the surrounding communities. The Department recommends that a visual analysis completed by the project sponsor be prepared consistent with the Department's existing visual policy (*Assessing and Mitigating Visual Impacts*, DEP-00-2). The analysis should indicate which of the 15 resource categories listed in section V (A) of the policy may be impacted by the project, and should also provide the specific resources under each category. Following such procedure, a comprehensive visual analysis of facility visibility should be prepared, based on definition of landscape characteristics, landscape similarity zones,

impacted viewpoint selection, user group definition and characterization, forecast of future conditions, analysis of seasonal variation and comparison of alternate project sites and scales. Since a wind farm represents a large landscape alteration, the assessment should examine an area greater than 5 miles from the turbines if there are any potential sensitive receptors as described in section V (B) of the DEC Program Policy

c) Natural Resource Impacts. Based on the limited information provided (detailed site plans showing all access roads and electrical interconnections were not provided) the Department was not able to identify any specific DEC protected wetlands or streams that would be impacted by the wind farm. An analysis completed by the project sponsor should identify the natural resources of the project area, and describe any potential impacts and all efforts to avoid or minimize them.

d) Natural Heritage/Threatened or Endangered Species. The February 15, 2005 letter from the NY Natural Heritage Program indicates the presence of the bald eagle, least bittern, and upland sandpiper in addition to the presence of several endangered and/or threatened plants in the vicinity of the project. However, at that time, the project was described as consisting of only 20 turbines. A survey of resident avian species within the current project area should be completed to address the presence of threatened and endangered species. Analysis should be conducted to describe and address potential impacts to all threatened and endangered species.

e) Cultural and Archeological Resources. The sponsor should consult the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) at (518)237-8643 concerning the identification of important cultural and historic resources in the project area. The sponsor would then work with the OPRHP to identify the potential impacts, and ensure the necessary avoidance and/or mitigation of those impacts occurs.

In conclusion, the Department appreciates the opportunity to comment on the project at this early stage and looks forward to working with the Town of Warren throughout the remainder of the SEQR and permit review process. The Department is eager to participate in the scoping process to fully develop the range of issues that should be considered in the review. If you have any questions, please contact me at (518) 402-9161.

Sincerely,

/s/

Kevin Kispert
Project Manager

cc: D. Malone, Malone & Malone LLP
A. Halkowich, Town Clerk
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