

**New York State Department of Environmental Conservation
Division of Environmental Permits, 4th Floor**

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February 21, 2007

Mr. Ronald Gilbert, Chairman
Town of Alabama, Planning Board
2218 Judge Road
Oakfield, New York 14125

**Re: Notice of Intent to Act As Lead Agency
Proposed Batavia Wind Farm, LLC/Alabama Ledge Wind Farm, LLC
Town of Alabama, Genesee County**

Dear Chairman Ronald Gilbert:

The New York State Department of Environmental Conservation (DEC) has performed an initial review of the application to the Town of Alabama for Batavia Wind Farm, LLC/Alabama Ledge Wind Farm, LLC, to construct, operate and maintain a wind park. The map of the proposed project and Part I of the Environmental Assessment Form was provided with the Town of Alabama's SEQRA Lead Agency Coordination letter, dated January 22, 2007. The project is described as a 117.6 megawatt (MW) wind power project consisting of up to 56 wind turbines, approximately 472 feet tall, with related infrastructure including an electrical collection and communication cable networks, step-up and interconnection substations, access roads, and an operations and maintenance building. Many of these features are tentatively identified on the area map included with the coordination letter.

1) **Lead Agency.** DEC does not object to the Town of Alabama Planning Board assuming the role of lead agency to conduct the SEQRA review. However, DEC has substantial concerns for the potential impacts of certain aspects of this project and strongly urges the Town to require the preparation of a Draft Environmental Impact Statement (DEIS). The comments provided in this letter support this recommendation and identify concerns DEC has with wind projects in general and the proposed project at this location in particular. DEC recommends that formal scoping be conducted to allow for ample participation by the public and involved and interested agencies in the preparation of the scope of the DEIS. DEC expects to provide further comments regarding recommended studies during the scoping process. Because other applications for wind energy projects have been submitted in this county and neighboring Wyoming County (including the

avoid interruption of breeding and nesting activities, and re-location or elimination of specific project components (turbines, access roads, interconnect routes) if any of these are determined to result in an actual or potential adverse impacts. Where impacts cannot be avoided, mitigation measures may include an adaptive management strategy. This strategy would identify potential modifications to the project and its operation if adverse impacts are identified during post-construction monitoring. These mitigation options might include, but are not limited to, removal or re-location of specific offending turbines, short-term shutdown during peak migration or other identified high-risk periods, and feathering blades at slow wind speeds to reduce risk of bat mortality. DEC recognizes that our understanding of wind power projects' effects on avian/bat mortality is evolving. Therefore the agency is eager to explore any options that may be effective in limiting adverse impacts from wind projects. DEC will require a post-construction study and mitigation plan as a condition for receipt of permits necessary for construction of the project.

b) Natural Resource Impacts. Natural resources in the project area need to be identified in the DEIS, including state and federal wetlands, streams and open water bodies, and potential impacts to these resources should be discussed. This includes wetland delineation reports for any areas that would be impacted by project construction, including turbine sites and crane pads, access roads, transmission lines, temporary staging areas, building sites including substations and the operations & maintenance facility, and road improvements necessary to deliver project materials, such as road widening, increasing turning radii, and modifications to culverts.

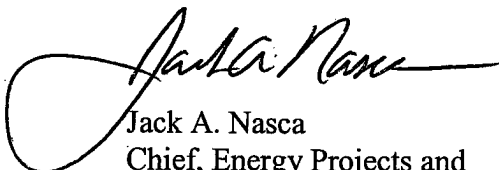
Applicants for DEC wetland permits are required to examine alternative project designs that avoid and reduce impacts to regulated wetlands to the maximum extent. The DEIS must include discussion of how the proposed project will accomplish wetland avoidance and impact minimization. If impacts are permitted, the applicant must demonstrate overriding economic and social needs for the project that outweigh the environmental costs of impacts on the wetlands. These factors must also be discussed in the DEIS. If unavoidable wetland impacts are expected to result from project construction activities, a discussion of compensatory mitigation being considered must be included. Proposed mitigation must conform to DEC wetland mitigation guidelines (see *Freshwater Wetlands Regulation Guidelines on Compensatory Mitigation*, available at: <http://www.dec.state.ny.us/website/dfwmr/habitat/wetlmit.pdf>).

c) Visual Impacts. DEC recommends that a visual analysis be prepared consistent with the DEC's existing visual policy (*Assessing and Mitigating Visual Impacts, DEP-00-2*, available on DEC's website at: <http://www.dec.state.ny.us/website/dcs/policy/visual2000.pdf>). The analysis prepared according to this policy must identify which of the 15 resource categories listed in section V (A) of the policy may be impacted by the project, and describe specific resources within each category and how these resources may be visually impacted by the project. A comprehensive visual analysis of facility visibility must be 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, DEC policy recommends that the assessment

sponsor will effectively partner with property owners to cooperatively manage natural resources within this area. A project-wide long-term environmental management plan is recommended to incorporate plans for restoration of environmental impacts during and following project construction, environmental considerations to be included in the ongoing maintenance of the facility (including maintenance and repair of roads and transmission corridors), a contingency plan to assess and minimize environmental impacts during major repairs, and assessment and mitigation of environmental impacts during the decommissioning process. An adaptive management component is a necessary feature of an environmental management plan, to respond to environmental impacts that arise during project operation (such as potential impacts to birds and bats). The plan should also seek opportunities for creation of environmental enhancements through cooperative partnerships with landowners, local governments, educational and conservation organizations.

In conclusion, DEC appreciates the opportunity to comment on the project at this early stage and looks forward to working with the Town of Alabama Planning Board throughout the remainder of the SEQR and permit review process. DEC 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 Rudyard Edick, Project Manager, at (518) 486-9150.

Sincerely,



Jack A. Nasca
Chief, Energy Projects and
Management
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