



United States Department of the Interior

NATIONAL PARK SERVICE  
Appalachian National Scenic Trail  
P. O. Box 50  
Harpers Ferry, West Virginia 25425

IN REPLY REFER TO:

September 23, 2008

Mr. David Wylock  
Dover Planning Board Chairman  
Historic Tabor Wing House  
3128 Route 22  
Dover Plains, NY 12522

Dear Mr. Wylock:

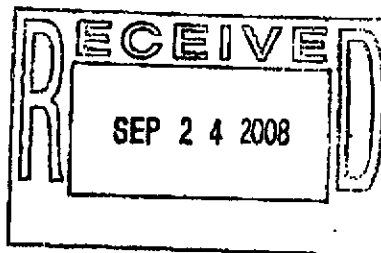
The National Park Service (NPS) appreciates the opportunity to comment on the proposed Wind Rose Project in proximity to the Appalachian National Scenic Trail in Dover Plains, New York. As you may know, the Appalachian Trail is a way, continuous from Katahdin, Maine to Springer Mountain, Georgia, for travel on foot through the wild, scenic, wooded, pastoral, and culturally significant lands of the Appalachian Mountains. The landscapes through which the Trail passes near Dover Plains is considered one of the most scenic in that area.

Our concerns center around trail visitor safety, increased traffic, and impacts to scenic vistas. Specifically, the view from the Appalachian Trail should be assessed during the planning process and conservation easements considered as potential mitigation. In addition, from the maps presented it is not clear if Trail lands would be directly affected by "cart" paths and utility installments. This should be clarified during the planning process and the project proponent should not assume that NPS approval would be forthcoming. It is our understanding that general discussions have been held regarding establishment of a Trail parking area. These plans should be discussed with this office and members of the local Trail club.

Thank you for the opportunity to comment. If you need further information, please contact Sarah Bransom, Environmental Protection Specialist, (304) 535-4003.

Sincerely,

  
Pamela Underhill  
Superintendent



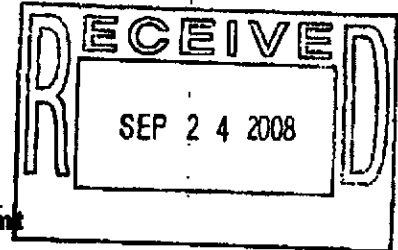
**New York State Department of Environmental Conservation**  
**Region 3, Division of Environmental Permits**  
 21 South Platt Corners Road, New Paltz, NY 12561-1696  
 (845) 256-3000 FAX (845) 256-4659  
 Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Alexander Di Granis  
 Commissioner

September 24, 2008

David Wylock, Chairman  
 Town of Dover Planning Board  
 Historic Tabor Wing House  
 3128 Route 22  
 Dover Plains, New York 12522



**RE: Wind Rose Dutchess, LLC - Comments on Draft Scoping Document**  
 DEC Pre-Application No. 3-1399-00060/00001  
 Towns of Dover & Pawling, Dutchess County

Dear Mr. Wylock:

The Department has reviewed the draft Scoping Document the Town of Dover Planning Board received August 20, 2008 for the Wind Rose Dutchess, LLC project. As the Department has indicated previously, the *biodiversity* of the site and surrounding environs must be protected to the maximum practicable extent. To that end and based upon our review, we offer the following comments.

1. **Biodiversity -**

A. **Bog Turtle:** The proposed project is within the known range of the bog turtle (*Clemmys muhlenbergii*), a species that is listed by NYS as *endangered* and federally listed as *threatened*. *Section D., Natural Resources*, contains only a cursory overview of the information to be provided in the site habitat assessment and makes no mention of the bog turtle. This section must be revised to indicate that the habitat assessment will specifically address potential bog turtle habitat on site and that the methodology of the proposed habitat assessment will be developed in conjunction with, and shall be approved by, Department staff.

In addition, the project site is located in the "Harlem Valley Calcareous Wetlands" *Significant Biodiversity Area* (SBA), as outlined in the *Hudson River Estuary Wildlife and Habitat Conservation Framework* [Penhollow et al., 2006], which is considered to include some of the best bog turtle habitat in the Hudson Valley. The bedrock features of this SBA result in a preponderance of wetland communities that are dependent on freshwater upwellings of high pH water, namely fens. Fen wetlands are the key habitat for the bog turtle, and are sensitive to alterations in hydrology that would disrupt groundwater inputs.

Because bog turtles occupy wetlands that are primarily groundwater dependent (rather than surface water dependent), this species and its habitat are vulnerable to activities that affect groundwater flow, distribution and recharge (for example, groundwater extraction wells, increases in impervious surfaces/pavement, and stormwater management facilities). Even minor changes in wetland water levels can have significant effects on bog turtles.

In addition to changes in hydrology, bog turtle habitat can be degraded through the introduction of pollutants ( road salt runoff, pesticides and fertilizers, sanitary wastewater discharges, etc.) or ground disturbance that encourages the spread of invasive species (common reed and purple loosestrife, *Phragmites australis* and *Lythrum salicaria*, respectively). These potential impacts (pollutant loading and invasive species) must be addressed in the DEIS. The DEIS should also address the creation of large buffer areas (areas of no disturbance) around known occurrences of the bog turtle and around areas of suitable habitat for the bog turtle. If development is proposed for that portion of the property near the headwaters of the Swamp River (northernmost portion of site), then off site impacts from the project could potentially affect the Great Swamp - and habitat areas - located to the east of the site.

In order to determine the effects of proposed water supply wells on the hydrology of surrounding wetlands and to determine if the proposed wells will adversely affect the bog turtle, all wetlands within the cone of depression associated with proposed water supply wells must be identified and a Phase I survey of those wetlands must be conducted to determine which are potential bog turtle habitat (see attached *Guidelines for Bog Turtle Surveys* developed by the US Fish and Wildlife Service). The Phase I survey, which must be conducted in accordance with the attached guidance, should be conducted of all wetlands within the areas that will be affected by well construction and operation (e.g., pump stations, generators, well heads, water storage tanks, treatment facilities, and water distribution lines). Note also that project plans at this time show only 100 foot adjacent area "buffers" for wetlands, whereas the attached guidance requires 300 foot buffers for wetlands with known occurrences of the bog turtle. Plans must be revised accordingly to include the required 300' buffer areas, once the Phase I habitat survey for the bog turtle is completed.

Following the Phase I survey, and in support of the sponsor's anticipated application for a Water Supply permit from the Department, the sponsor must conduct pump tests according to the DEC guidance document entitled *Recommended Pump Test Procedures for Water Supply Applications* [follow this link to the DEC website: <http://www.dec.ny.gov/lands/5003.html>] to determine whether or not operation of the proposed wells will cause any reduction in water levels within the wetlands identified as potential bog turtle habitat. If any hydrological changes to those wetlands are expected, the sponsor will have to either conduct a Phase 2 bog turtle survey to determine if bog turtles are present on the site, or assume bog turtles are present, and modify the project to avoid potential adverse effects to this species.

Therefore, *Section D. Natural Resources*, in the circulated draft Scoping Document, and *Section E., Water Resources and Wetlands*, must be revised to include a discussion of potential adverse effects to hydrological connections, and specifically groundwater, on and off the site. Although no discussion has yet been provided regarding the wastewater discharge from the proposed sewage treatment plant, these sections should be expanded to include [at a minimum] a brief discussion of the potential volume and quality of the proposed discharge. Location of the outfall should also be assessed. Level of treatment to be provided by the proposed wastewater treatment plant (WWTP) must be discussed. Discussion of potential non-point pollution sources should be discussed (for example, fertilizers, nutrients, and pesticides from lawns and golf course). Potential

impacts to the bog turtle must be explored in depth per the above and in the attached guidance.

B. Indiana Bat: This bat species is listed by NYS and the U.S. federal government as *endangered*. No mention of this endangered species is made in the draft Scoping Document. However, due to the large amounts of clearing and development proposed (approximately 450 acres will be disturbed and/or cleared), potential impacts to the Indiana bat should be studied as the project site lies approximately 30 miles from a known bat hibernacula. The site survey should include an assessment of suitable roosting trees for the Indiana bat, whether any maternity colonies are located on site, and measures proposed to preserve such trees. Note that impacts to bat roosting trees can be minimized by restricting the time of year clearing will occur (i.e., cut trees in winter). Revise this section accordingly. This section must be revised to indicate that the habitat assessment will specifically address potential impacts to the Indiana bat and that the methodology of the proposed habitat assessment will be developed in conjunction with, and shall be approved by, Department staff.

C. Amphibians: The western portion of the site may contain vernal pools and associated pool-breeding amphibians, including those State-listed as "Special Concern" species. Thus, these resources and associated amphibian species should be considered in a habitat assessment, along with the proximity and quality of critical upland forested habitat. This section must be revised to indicate that the habitat assessment will specifically address vernal pools and their associated amphibian species, and that the methodology of the proposed vernal pool habitat assessment will be developed in conjunction with, and shall be approved by, Department staff.

D. Rare Plants: In addition to bog turtles, calcareous fens and fen-like areas often support regionally-rare plants. A comprehensive site survey of potential rare/endangered/threatened plants should be included in the biodiversity assessment performed for the project; this portion of the Draft Scope/DEIS should include this information.

2. **General -**

A. *Section A, under Land Use and Zoning* [among other Sections which discuss zoning], should be expanded to include a discussion of proposed Local Law No. 5 of 2008 of the Town of Pawling. DEC received a copy of this proposed municipal law May 27, 2008; the law appears to regulate areas [for an interim period] within the Town of Pawling that lie west of NYS Route 22. As portions of the project site appear to lie within this regulated area, include a discussion of whether this proposed law will impact the proposal.

B. *Section B., Required Elements*, must be expanded to include an analysis of greenhouse gas emissions that will result from development of the project. Attached please find a copy of a preliminary draft document currently being developed by DEC and just released to the public, *Guide for Assessing Energy Use and Greenhouse Gas Emissions In Environmental Impact Statements*, to assist applicants in assessing such impacts. In addition, *Section A., Air Quality*, should be revised to include discussion of greenhouse gas analysis.

C. *Section B., Required Elements*, must also be expanded to include an analysis of energy use and conservation measures, as these are integral to the discussion of green house gas emissions, especially as the proposal purports to be a demonstration of *sustainable* practices. As supplies of available energy dwindle and costs increase proportionally, we believe that project sponsors should investigate whether any renewable or alternative energy sources can be incorporated into

site design. Additionally, this section should provide the following: a description of the effect of the proposed action on the short and long term use and conservation of energy resources; ways to reduce inefficient or unnecessary consumption of energy during construction and long term operation; and a discussion of applicable building codes. We understand that the project sponsor is incorporating design elements suggested by the United States Green Building Council's *Leadership in Energy and Environmental Design* (LEED) program into the project. We believe that incorporation of such measures should be maximized in project design. This section should also reflect those efforts proposed to minimize vehicle traffic trips both within the project limits and trips to, and from, the site.

D. *Section B., Visual Resources*, should be revised to be consistent with the DEC guidance document entitled *Assessing and Mitigating Visual Impacts* [follow this link to the DEC website: <http://www.dec.ny.gov/regulations/2374.htm>]. A five-mile radius is specified for analysis in the above DEC guidance, not "a two-mile radius" as discussed on page 9 of the Scoping Document. We also believe that a discussion of potential night time "light pollution" from the project should be added, as well as potential mitigation (outdoor lighting fixtures aimed downward, lower wattage fixtures, or other).

E. *Section E., Water Resources and Wetlands* (page 9), should be revised so that *avoidance* of disturbance to wetlands on site is the primary goal of the wetland assessment and plans prepared for the project, rather than immediately planning for mitigation opportunities. Following *avoidance*, the strategy of *minimization* of proposed disturbances should be the next goal in descending order when planning the project. Finally, only after all proposed disturbances have been avoided and then minimized to the maximum practicable extent, should *mitigation* for those disturbances which cannot be avoided or minimized be investigated. Revise this section, and others which refer to wetland disturbance, to reflect the above.

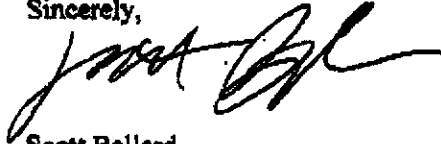
F. *Section I., Stormwater Management* (page 15), should be revised to indicate that all stormwater measures proposed for the project will be designed in accordance with the SPDES Stormwater General Permit (Stormwater Discharges from Construction Activities, GP-0-08-001). Note that the Erosion and Sediment Control Plan (as discussed on page 10) should also be designed to prevent sediments from "migrating" from disturbed areas of the 1,145 acre site to undisturbed areas of the site, rather than merely controlling "off site migration of sediments."

G. Site plans developed for the project should incorporate all NYS Freshwater Wetlands located on and adjacent to the site, with their respective 100 foot adjacent area boundaries shown. In addition, project plans must include 300 foot buffers around wetlands known to have bog turtles. Plans should also include proposed water supply well locations.

Town of Dover Planning Board  
Wind Rose Dutchess, LLC - Draft Scoping Document Comments  
September 24, 2008  
Page 5

We hope the above comments can be incorporated into the final Scoping Document and the Draft Environmental Impact Statement (DEIS) prepared for this proposal. Please contact me at (845) 256-3055 to discuss any questions you may have regarding the above.

Sincerely,



Scott Ballard  
Environmental Analyst

Attachments: 1) *Guidelines for Bog Turtle Surveys* (6 pages)  
2) DEC draft guidance document entitled: *Guide for Assessing Energy Use and Greenhouse Gas Emissions In Environmental Impact Statements* (12 pages)

cc w/o attachments: W. Janeway, Regional Director  
Supervisor and Town Board, Town of Dover  
Supervisor and Town Board, Town of Pawling  
Town of Pawling Planning Board  
J. Jones - Wind Rose Dutchess, LLC

cc via e-mail: S. Joule/L. Masi  
L. Heady  
J. Pinheiro