



COMMONWEALTH of VIRGINIA

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March 1, 2006

Wayne N. Smith, Esq.
Senior Counsel
State Corporation Commission
1300 East Main Street
Richmond, Virginia 23219

RE: Highland New Wind Development, L.L.C., State Corporation Commission,
Case No. PUE-2005-00101, Application for Approval to Construct, Own
and Operate an Electric Generation Facility in Highland County, Virginia
pursuant to §§56-46.1 and 56-580D of the Code of Virginia (DEQ# 06-011S).

PUE-2005-00101

Dear Mr. Smith:

This letter follows up our discussion (Irons/Smith, 2/27/06) to the effect that agencies reviewing the above-referenced application need additional information in order to complete their evaluation of the environmental impacts of the proposed project. As we discussed, DEQ is suspending the review of the environmental report for this application. This action is consistent with Section 5.A.(ii) of the Department of Environmental Quality-State Corporation Commission (DEQ-SCC) Memorandum of Agreement (dated August 14, 2002). As stated in our January 18, 2006 letter commencing the review, DEQ reserves its rights, pursuant to the afore-mentioned MOA, to suspend the review and seek additional information if during the course of their review the reviewing agencies determine that the information provided is insufficient.

The following agencies are parties to this request for additional information from the applicant:

- Department of Environmental Quality (hereinafter "DEQ")
- Department of Game and Inland Fisheries ("DGIF")
- Department of Conservation and Recreation ("DCR")
- Department of Historic Resources ("DHR")

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Department of Mines, Minerals, and Energy ("DMME").

The detailed comments of DGIF, DCR, and DHR were sent electronically to the applicant's representative (Mr. John Flora) at his request on March 1, 2006.

Summary of Comments from the Department of Game and Inland Fisheries

1. The Phase 1 Avian Risk Assessment (Kerlinger and Guarnaccia, 2005; hereafter, Avian Assessment or Assessment) did not review significant and pertinent data collected at other sites in the Allegheny Mountains. Additional information within the physiographic region of the project is necessary.
2. The Avian Assessment. must include data in the Virginia Breeding Bird Atlas, published in 2001.
3. The use of the project site as a stopover point for song bird migrants warrants additional review of the potential impacts of the proposed wind turbines on nocturnal migrants.
4. A Radar and Visual Study of Nocturnal Bird and Bat Migration at the Proposed Highland New Wind Development Project, Virginia, Fall 2005 (Plissner et al., 2006; hereafter, Radar Study or Study), does not include data for July and early August. Other studies have recommended that radar studies should start no later than the middle of July in order to capture the migration period. This should be addressed.
5. The Avian Assessment should review pertinent data on hawk migration in the Allegheny Mountain range.
6. The Overview of the Current State of Knowledge of Bats with Specific Reference to the Potential Impacts of Wind Power, Highland New Wind Project (North East Ecological Services, 2006; hereafter, Overview) did not address use by bats of "watering holes" located on the ridges. This should be remedied since areas of water, even as small as road ruts, are very important to bats and are used extensively throughout the spring, summer, and fall.
7. The Northern Flying Squirrel Survey at Site of Proposed Highland New Wind Development, Highland County, Virginia (Michael 2005) did not document northern flying squirrels on Red Oak Knob or along Tamarack Ridge, previously documented in Highland County and on the Project property (Pagels et al., 1990, Fies and Pagels, 1991, and Reynolds et al., 1999).
8. The impact analysis must consider the cumulative impacts of constructing the Highland Wind project within the Allegheny Mountain physiographic region. The cumulative impacts analysis should consider that there are already 88 wind turbines operating, 457 permitted, and 480 industrial wind turbines proposed or planned at 34

facilities within the Allegheny Highlands of Virginia, West Virginia, Maryland, and Pennsylvania.

9. DGIF recommends some additional assessments, monitoring, and mitigation, including but not limited to:
- Field Surveys and assessment during bald eagle breeding season.
 - Winter use of the area by raptors including but not limited to bald- and golden eagles, and potential take by wind turbines.
 - Use by bats of high ridges for raising young and for migration.
 - More frequent carcass search interval.
 - A survey for caves in proximity to the project site.
 - Impact to Federal Species of Concern/State Endangered rock vole (*Microtus chrotorrhinus*) and water shrew (*Sorex palustris*).
 - Impact to Laurel Fork, a Class II wild trout stream to be crossed by a utility line.
 - Visual impact to Virginia Birding and Wildlife Trail, and regional socioeconomic impact.

Summary of Comments from the Department of Conservation and Recreation

1. The Department of Conservation and Recreation recommends an inventory for natural heritage resources in the study area, identified in its February 15, 2006 letter (referencing its November 28, 2005 letter). With the survey results, DCR's Division of Natural Heritage (DCR – DNH) can more accurately evaluate potential impacts to natural heritage resources and offer specific protection recommendations for minimizing impacts to the documented resources.
2. The Department of Conservation and Recreation's Division of Planning and Recreation Resources (DCR – DPRR) stated that the application does not address the scenic and recreational impacts of the project. An analysis of the viewshed from Laurel Fork, a potential Virginia Scenic River, is not provided and is necessary for complete review. Also, an analysis of the viewshed from Route 250, a potential Virginia Scenic Byway, is not provided and is necessary for complete review.

Summary of Comments from the Department of Historic Resources

1. Department of Historic Resources (DHR) finds that the information provided in Section 11(h) of the application is insufficient for the DHR to provide full and final comment on the potential impacts of this project on historic properties. At the scoping meeting on September 12, 2005, DHR expressed concern over the potential direct impacts to archaeological resources and indirect impacts to Camp Allegheny and other potentially historic structures and districts. At that time, DHR recommended to the applicant that the following items be provided for DHR's review:
 - A viewshed analysis to determine from where the turbines would be seen;

- The results of an architectural survey within the viewshed to determine if individual historic structures or potential rural historic districts are present; and
 - A comprehensive site plan, including detailed grading and construction plans, to determine the location and extent of all ground-disturbing activities so that a recommendation on the need for an archaeological survey within the project area can be offered.
2. In addition, the claim that the turbines would not be visible from the parking lot at Camp Allegheny is unsubstantiated with photo-simulation. Also, the potential impacts to the extensive earthworks and other well-preserved components of this camp are not addressed.
 3. DHR requests that these and its earlier comments be addressed and the necessary additional information provided for its consideration. Once it has this information, DHR will be able to provide guidance on the need for additional studies and evaluations.

Comments from the Department of Mines, Minerals, and Energy

The geology section of the application (page 14) is a physiographic discussion. There is *no* description of the geology of the site. The Department of Mines, Minerals, and Energy (DMME) suggests the proponent contact the Virginia Division of Mineral Resources (Charlottesville) for published geologic information.

DEQ-OEIR notes that this information may also be helpful for evaluating the proposed site for caves, and for the potential impact to bats.

U.S. Army Corps of Engineers

According to the U.S. Army Corps of Engineers January 23, 2006 letter to Ms. Susan T. Murdock (Malcolm Pirnie), if the proposed utility line crossing of Laurel Fork and its two tributaries requires the discharge of dredged or filled material below the ordinary high water line of Laurel Fork Creek or its tributaries, and/or adjacent wetlands, a Department of the Army permit will be necessary. If this permit is required, the Corps of Engineers is obligated to comply with the requirements of the National Environmental Policy Act (NEPA), and the National Historic Preservation Act (NHPA). The Corps cannot issue a permit until the requirements of these laws have been satisfied. The Corps identified potential impact to the following resources that requires evaluation:

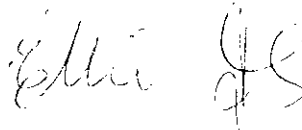
- Northern Flying Squirrel
- Historic Resources
- Laurel Fork, a State Trout Water
- The Corps also notes it would be relevant to clarify the perennial or intermittent classification of the two tributaries which may be impacted by this project.

Following the evaluation of these four topics, some of which overlap with topics raised above, the applicant should provide the information to the Army Corps of Engineers, Norfolk District as well as to DEQ and the state agencies involved in this review.

Upon receipt of complete information which adequately addresses the additional information and analysis requested by reviewing agencies, DEQ and the other reviewing agencies will work to complete the review of this project in a timely manner. We will contact you with an estimated review completion date once the information is in hand.

If you have any questions regarding this letter, please call me (telephone (804) 698-4325) or Ernie Aschenbach (804) 698-4326) of this Office

Sincerely,



Ellie L. Irons, Program Manager
Office of Environmental Impact Review

cc: Michael P. Murphy, DEQ-DEE
Scott Bedwell, DCR
Robert S. Munson, DCR
S. Rene Hypes, DCR-DNH
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