Appendix 1-A: Comments Received on the DEIS (part 2)

PROJECT OVERVIEW

NYMarc

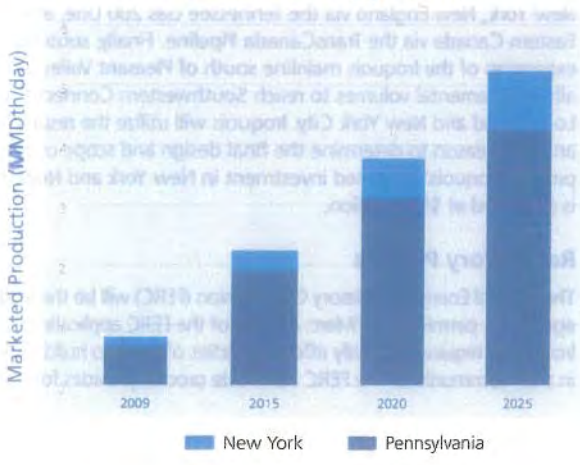
CONNECTING MARCELLUS SUPPLIES TO NORTHEAST MARKETS

Project Highlights

- Proposed to connect rapidly expanding Rockies and Marcellus Shale supplies to New York and New England markets
- Approximately 66-mile, 36-inch diameter natural gas pipeline:
  - 60 miles in New York
  - 6 miles in New Jersey
  - Majority of line will be located near existing energy corridors
- One compressor station proposed at Millennium Pipeline interconnect
- Initial capacity is expected to be 500 mdth/day (equal to the heating needs of over 1.8 million homes)
- Ultimate capacity is expected to be 2,000 mdth/day (equal to the heating needs of over 7 million homes)
- Estimated $500 million investment in New York and New Jersey
- Scheduled in-service date is fall 2014

Dramatic increases of natural gas supplies in Pennsylvania and New York are expected over the next 15 years driven by completion of the Rockies Express Pipeline and production from the prolific Marcellus Shale deposits. This emerging domestic energy resource is estimated to contain recoverable quantities equal to the combined demand of New York City and Long Island for over 350 years at 2008 consumption levels. Iroquois' *NYMarc* project is designed to bring these new supplies to the Hudson River Valley, Long Island, New York City and New England.

PA and NY Supply Growth



Iroquois
GAS TRANSMISSION SYSTEM
IROQUOIS PIPELINE OPERATING COMPANY, OPERATOR

Project Overview

Growing natural gas supplies in Pennsylvania and New York could access *NYMarc* through an expansion of the recently completed Millennium Pipeline which runs along the Pennsylvania/New York border, via the existing Tennessee Gas 300 Line which runs through the heart of the Pennsylvania Marcellus Shale, or through new gathering systems from formations located in Northeastern Pennsylvania and New York.

As proposed, *NYMarc* would receive gas from Tennessee at a new interconnect to be located at Station 325 in the Town of Wantage in Sussex County, New Jersey. The 36-inch diameter pipeline would extend approximately six miles to the New York State border, and would be sited predominately within low-lying, previously cleared farmland to minimize visual impact. The northeasterly orientation within the Wallkill River Valley avoids any crossing of High Point State Park or the New Jersey Highlands.

Once in New York, the pipeline would continue approximately four miles to the Millennium Pipeline where a new interconnect and compressor station would be constructed in the Town of Minisink in Orange County, New York. There, the gas would be compressed to 1480 psig and flow through the pipeline along the Wallkill River Valley for 56 miles primarily near existing energy transmission corridors. To minimize environmental and visual impacts, the pipeline would cross beneath the Hudson River between the towns of Lloyd and Poughkeepsie via an approximate 1-mile horizontal directional drill before continuing on to an interconnect with the existing Iroquois mainline in Pleasant Valley, New York. Along the way, the project would contribute to the tax base, create construction jobs, and provide the opportunity for access to low cost energy, helping stimulate the local economy.

Once on the Iroquois mainline, *NYMarc* volumes could access a variety of markets. At Pleasant Valley, *NYMarc* could augment existing Western Canadian Sedimentary Basin supplies. Backhauling volumes north would provide support to communities in Northern New York, New England via the Tennessee Gas 200 Line, and Eastern Canada via the TransCanada Pipeline. Finally, subsequent expansion of the Iroquois mainline south of Pleasant Valley would allow incremental volumes to reach Southwestern Connecticut, Long Island and New York City. Iroquois will utilize the results from an open season to determine the final design and scope of the project. Iroquois' proposed investment in New York and New Jersey is projected at $500 million.

Regulatory Process

The Federal Energy Regulatory Commission (FERC) will be the lead agency for permitting *NYMarc*. As part of the FERC application, Iroquois is required to notify affected parties of plans to build facilities in their communities. The FERC certificate process provides for a coordinated environmental review, with public participation, prior to construction of the project. *NYMarc* will also require permits and approvals from several other federal, state and local authorities.

Iroquois is proud of its reputation as a responsible corporate neighbor who contributes to the wellbeing of the community, and we commit to work with affected stakeholders to seek input throughout the planning, permitting and construction of *NYMarc*. Early outreach is essential for us to identify and address issues and concerns.

Safety

The safety of the public and our employees is a top priority for Iroquois. Interstate natural gas pipelines are America's safest transportation network, and Iroquois has a longstanding, excellent safety record. The proposed pipeline facilities will be designed, built, and operated to meet or exceed industry and government standards designed to ensure public safety.

Environment

As a local, New England based company, we live in and care about the communities we serve. Respect for the environment is an important part of Iroquois' culture, and we are dedicated to preserving our environment by seeking ways to minimize intrusions to, and maximize protection of, our natural resources. *NYMarc* will be subject to an extensive environmental review as part of the regulatory process. Iroquois will collect and analyze site specific environmental information to understand potential impact, develop mitigation plans, and prepare environmental reports for review by the FERC and other permitting agencies. Construction will not commence until these agencies are satisfied that *NYMarc* can be constructed without significant impacts to the environment.

Forward-Looking Statement Disclaimer

Portions of this document may constitute "forward-looking statements" as defined by federal law. Although the company believes any such statements are based on reasonable assumptions, there is no assurance that actual outcomes will not be materially different. Any such statements are made in reliance on the "safe harbor" protections proved under the Private Securities Litigation Reform Act of 1995.

Contact

Your questions and comments are important to us. For more information please contact:

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31

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August 4, 2011

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RE: Cricket Valley Energy DEIS comments
Cricket Valley Energy proposed site Route 22- Town of Dover, NY

Dear Mr. Tomasik:

I, along with my husband, two daughters and mother-in-law, have been a resident and taxpayer of Wingdale for the past 17 years. We chose to relocate here from Mt. Kisco NY lured by the seeming purity of a rural life in an agricultural community. It turns out rural life has been home to such places as the Mica Plant, Rasco, the Iroquois Pipeline and the like, not to mention Nuclear Lake one town away. Below are my comments, concerns and questions regarding Advanced Power's proposed Cricket Valley Energy 1,000 mw, combined cycle gas fired power plant:

1. AIR

According to the American Lung Association Dutchess County maintains a failing grade for air quality over the past three years, with a one point increase in ozone from last year. The studies of the Cary Institute in Mlibrook NY, state that over all NOx and VOC's have decreased since 1988. This is good news! However particulates have remained the same, this is NOT good! This most likely is due to our frequent air inversions being located in a narrow valley. CVE specialist are using data acquired from Poughkeepsie

which is good, as we need accumulative data of emissions carried east by prevailing winds, Cary Institute information is also helpful, but not local enough, to be a thorough collection of facts regarding our own towns air quality. I maintain that we must have data collected here, best locations being at our high school and elementary schools as it has been stated that the further away emissions travel the more hazardous they become as they combine with other particulates. We should also be concerned with data regarding surrounding townships, as our air is also their air. As for CVE'S plans to commence construction 2012, I don't believe we will have acquired sufficient data, if they plan to start in the early part of the year. I do not contest that the very congenial CVE team has developed an impressive "state of the art" facility, and I appreciate their open dialogue, and transparency as well as the thoughtfully carried out plan for the proposed site and the development of the facility. However, we need to take a responsible, redundant, critical approach to a project of this magnitude. Methane will inevitably be released along with NOx and VOC's in an area where ground level ozone is already a problem. I am concerned about the issue of carbon capture and insufficient usable technology. We surly should have a low to no impact means for this capture as we create these new burning plants. The talk of carbon capture by means of pumping emissions into our earth is absurd, how is this not a process that stands to contaminate soil and water? When the Federal Government seeks to retrofit gas fired plants with this technology in the future are we up against another environmental dilemma in Dover? For a world that speaks of global warming and the need to cease emissions by 2050 it does seem we are jumping from the fire into the frying pan. I have requested that my Town Board seeks an Independent (of CVE) specialist to analyze the findings of the DEIS. We need to be ever so careful in an approach to possible permitting. In the event that we find all data to be supportive of permitting the CVE power plant, we might consider putting warning signs for public entering our valley much like those on cigarette boxes, with proposed images of people ill from exposure to first hand and second hand smoke, after all natural gas is as natural as 100% natural additive free tobacco. What course of timely and remedial action will we be able to take in the event anyone suffers declined health as a result of emissions. PLEASE, take into deep consideration the health of our environment and all that live within it, particularly "our children"

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2. WATER

While CVE states that they will not be releasing contaminated water back into the environment do the emissions of the facility not create pollution to our air which in turn contaminate ground water and ridge waters that inevitably return to our water supply? I think it would be best to have continual monitoring of the aquifer and nearby residential wells in conjunction with random testing of wells throughout Dover in the event that permitting is granted, performed by experts of the Town Boards choice, at the expense of CVE. I am concerned about future diminished water supply from being over drawn particularly in times of drought. How does drawing from below bedrock not affect main aquifer? Perhaps I am ignorant but if water volume is removed below, will the water above not seep to fill that void? I feel this concern would be best mitigated by mandating that CVE provides adequate storage tanks on site, purchases and transports the majority of water necessary for operations thereby generating business and employment, and sparing our aquifer for life sustaining purposes (Perhaps they might purchase seawater from our rising seas that are said to be due to global warming, from fossil fuel burning emissions. Then they could employ more people to desalinate the water, and perhaps utilize the salt in the event there is increased need of de-icing the roads when heat generated by the facility causes vapors that could potentially create fog and ice on nearby roads. They might also consider permanent fog lights along Route 22 and Cricket Hill in the event that fog is a problem in the cold months.

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3. WETLANDS

Will there be an ongoing disruption of habitat in the wetland and do we stand to further contaminate it? As such facilities as The Mica Plant, waste recycling and Rasco have done in the in the past. There seem to be quite a number of contaminating businesses located here in Dover

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4. NOISE

I am concerned for those of our residents who live near the facility in regards to disturbance from noise during the construction phase and during operational period. As

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nuisance from noise can create agitation and sleep deprivation, a very serious problem and being in a valley will exacerbate that problem. CVE has asked for a variance to be allowed to exceed 60 db toward railroad.

31-12 cont.

5.RAILROAD

I am concerned about the potential for derailment near the facility however unlikely it may be and the use of 19% aqueous ammonia. I am also concerned about the safety of passengers on Metro North in the event of a catastrophic explosion, which CVE states would not be severe and is unlikely due to the cautious measures they take. One must always assume technological and human error can occur, for instance Three Mile Island, in it's time a "state of the art" facility with highly skilled employees, an excellent example of human error.

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6. EMPLOYMENT

A total of 30 permanent highly skilled jobs with a goal of taking coal burning power plants of line, and the employees along with it. JOB CREATION? Really?
Up to 780 temporary jobs over the coarse of three years, (many of which will come from Dutchess county) with Dover bearing the brunt, (many of which)speaks about County not Dover. Where will the other percentage come from? And how fortunate that they will not have to live here when the product of their employment is complete. What about those who do not stand to profit by means of employment or bid winning? Again does ANY financial gain make jeopardizing health acceptable?

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7. EXPLOSION

I am deeply concerned about the possibility of explosion and fire, resulting in possible implosions of windows of nearby residences, train and vehicles passing by, particularly school buses. I am concerned about the resulting structural integrity of CVE, local residences, their water wells and the Iroquois Pipeline. What will the air and water quality issues and health risk assessments be as a result of explosion and fire? I imagine those emissions would be quite severe, particularly with schools and residences, aquifer and wetlands so close in proximity. Despite Advanced Power upholding that such events

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are unlikely or would be very mild in nature, one must realize (again) that technological and human error DO occur even in the best of the best. At one time Three Mile Island, and Indian Point were "state of the art"

31-15 cont.

8. FIRE DEPT.

I don't believe our (volunteer) Fire Department will have the capacity to respond to a catastrophic event at the plant in a time frame necessary. CVE states that they will be working closely with our local Fire Dept. Does this mean they will furnish the Departments with equipment, training and (PAID) manpower, in order to effect quick response and increased safety of our firemen and those they stand to protect? A volunteer based fire department is not going to cut it! they need full time paid firemen that CVE should be paying for as well as increasing their capacity by means of training and equipment.

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9. PROPERTY VALUES

With Dover Knolls being a much needed opportunity for the growth of Dover, what negative impact would a power plant have on Dover Knolls ability to sell properties, ranging from low income to high end at the prices necessary to meet their required profit? What study has been done to gather data regarding impact to property values be it residential or commercial. Most of us cannot afford to lose any more value in an already depressed real estate market. And many of us have invested great amounts of money into our real estate that we may not see the return on. According to the study, *The Effect of Power Plants on Local Housing Values and Rents* by Lucas W. Davis there may be substantial impact.

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10. FUTURE ISSUE

What is the likelihood of new pipelines being laid for CVE to connect to gas from the Marcellus Shale in the future, and the demand for hydro-fracking. Despite the statement that this particular project itself is "not hydro-fracking" wouldn't it be fair to say that gas fired power plants = need for natural gas=future need for hydro-fracking? And what about the issue of cabling? The Benjamin Company plans to eventually utilize gas for their development do they require a power plant in order to connect to the pipeline? And

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if Benjamin companies do access natural gas from Iroquois what impact will that connection have on out town.

31-18 cont.

11. PUBLIC MONIES

Will CVE obtain and utilize Federal and State monies? And if so, wouldn't those public monies be best spent, helping taxpayers to update their homes and businesses with true green energy production such as Solar and or wind turbines as with global warming being a main concern we might consider deeply that fossil fuel energy of any kind needs to cease, and non-emission producing renewable alternatives are the only hope for a future and the well being of all life.

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12. BENEFIT

The greatest beneficiary is Advanced Powers, then, whoever is the owner of the facility there after, Dover is very last on that list. Will our schools stand to lose any state funds as a result of receiving payoffs, or contributions from CVE? Some residents of Dover are under the assumption that their property and school taxes will be lowered as a result of CVE, is that so? And is the financial payoff or gain a wise trade for accepting declined health of our environment and all that live within it? I would rather pay my taxes and not pollute the environment. Some believe those of us with concerns do not like progress, On my list of hopes for progress in this town, never was a power plant one of them. Is revenue generation truly progress when ozone producing smog, and water contamination or depletion is the price? Since when has anyone ever needed to receive a payoff to accept something truly worthwhile? With the question of need on the table, and the reports that state even without Indian Point we already have sufficient power production, a bargain is no bargain if you don't need it.

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13. LOCATION

As for location I am certain it is ideal for the needs of Advanced Power's Cricket Valley Energy project. However, we need to prove that it is a wise location with regard to being in a stagnant valley, within proximity to Schools, residential property, aquifer, wetlands, and railroad.

31-21

I want to Thank you for granting an extension for the submission of written commentary regarding the DEIS and for taking the time to read and address our concerns. I remain hopeful that a win -win situation may be achieved, as much has been invested in regards to this project.

Sincerely,
Tamara C. Wade

32

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August 5, 2011

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Re: Cricket Valley Energy DEIS Comments

Dear Mr. Tomasik:

AKRF, Inc., as the Town Planning Consultant to the Town of Dover, has prepared the following comments on the Cricket Valley Energy (CVE) Draft Environmental Impact Statement (DEIS). We are also attaching comments from the Town's Engineering Consultant, Joseph P. Berger, PE, LS dated June 21, 2011.

It should be noted that our review is commensurate with the level of review that an Involved Agency, and not a Lead Agency, would provide to a DEIS. We assume that the NYSDEC, as Lead Agency, has conducted a thorough review of technical areas not directly relevant to the Town of Dover's Special Permit criteria. However, we have reviewed the entire DEIS for potential impacts specific to the Town of Dover.

EXECUTIVE SUMMARY

1. "Table 1: List of Agencies Permits and Approvals" on page 2 and "Table 1-4: Status of Permits and Approvals for the Cricket Valley Energy Project" on page 1-34 do not list the same required approvals for the Town of Dover. Both tables should also note the proposed Zoning Amendment which requires Town Board approval, as well as subdivision approval which is required for the lot line change. 32-1
2. It is noted that the project site is located within the Mica Products Critical Environmental Area (CEA). A map and the reasoning behind this designation should be provided. Will this designation be removed once the area is cleared of the former Mica Products facility? 32-2
3. Page 5 states that, "The project has been designed to be complementary to the Property's environmental resources and surrounding land uses." The use of the term "complementary" seems out of place, "not infringe" would be more appropriate. 32-3

4. Page 10 states that, "Approximately 4.8 acres of forested habitat will be cleared permanently as part of project construction. Approximately 6.3 acres of forested habitat will be altered permanently and converted to scrub/shrub or bioretention pond habitat, resulting in a greater diversity of habitat." The use of the phrase "greater diversity of habitat" implies a beneficial change to the project site and seeks to minimize the impact of the loss of 11.1 acres of forested habitat. However, the conversion of forested land to scrub/shrub or bioretention pond habitat is not necessarily better. It is simply a change that may or may not have an environmental impact. The DEIS should identify whether the loss of this forested habitat is considered an impact. 32-4

5. Page 23 states that, "The project is a combined cycle electric generating facility, which is one of the most efficient methods of producing baseload electricity. The project's high efficiency will require less fuel to produce equivalent amounts of electricity than other fossil-fuel based technologies. In addition, the sole use of cleanburning natural gas for the combustion turbines means that not only is fuel efficiently used, but also the cleanest possible fossil fuel is utilized. By displacing the operation of older, less efficient generating plants, the project will contribute to regional fuel savings, as less fuel will be required to generate the same amount of electricity." This statement should be substantiated. Would the project actually displace existing facilities or would it meet projected demand? 32-5

PROJECT DESCRIPTION

1. Page 1-5, which describes the past industrial use of the site, fails to mention the past and present use of the project site for product storage by Rasco Materials (formerly T&T materials). 32-6

2. The Project Description should include a discussion of the required subdivision to adjust the lot line between the Project Site and the Rasco Materials parcel (which, like the Project Site, is owned by Howland Lake Partners). It is noted that Rasco Materials shares the same driveway off of Route 22 with the Proposed Project. How will access to the Rasco site be maintained? Are there any plans to purchase the Rasco site since it is owned by the same entity? 32-7

3. It is noted that the proposed Laydown Site is the field from the Asher B. Durand painting, "Dover Plains." This should be addressed as a potential community character impact. 32-8

4. Pg 1-19 states that the Federal Aviation Administration (FAA) will require lighting on all three stacks, and recommended a dual lighting system that would result in red lighting at night and medium intensity white lights during daytime hours. Photosimulations of the proposed night-time illumination from sensitive receptors and an assessment of potential impact to those receptors from the night-time illumination should be provided. 32-9

5. Page 1-22 notes that a small amount of un-reacted ammonia ("ammonia slip") will be leaked from the project. Will the smell of the ammonia be detectable off-site? What are normal background levels of ammonia for comparison? 32-10

6. Section 1.6 – Required Permits and Approvals on page 1-33 should discuss the potential zoning amendment regarding noise limits at the property line and fence height since these are discussed later in the document. 32-11

SECTION 2 – EARTH RESOURCES

1. This section discusses the Phase I Environmental Site Assessment of the on-site buildings. The use of Building E by Rasco Materials for the storage of cold mix asphalt (the soil piles noted on page 2-4) should also be identified. As such, this building should also be inspected for petroleum contamination. 32-12

2. Page 2-10 notes that Rasco Materials, LLC (formerly TT Materials Corporation), is located on an adjacent parcel owned by Howlands Lake Partners south of the Project Development Area. It should also be noted that Rasco Materials has historically used the Project Site for storage. 32-13

SECTION 3 – NATURAL RESOURCES

1. The DEIS contains a comprehensive analysis of potential impacts to threatened and endangered species, wetlands, and watercourses. Since these natural resources are not locally regulated, and generally fall within NYSDEC's jurisdiction, we defer to NYSDEC's consideration of these impacts and proposed mitigation measures.
2. As mitigation for potential natural resource impacts of the proposed project, continued monitoring of the Great Swamp water quality should be considered. In particular, the Great Swamp should be monitored for potential acid rain and NO_x impacts. 32-14

SECTION 4 – AIR RESOURCES

1. Overall, the air quality chapter presents a comprehensive assessment of the potential air quality impacts for the proposed project. The analysis was performed based on applicable air quality regulations, and followed applicable air modeling guidance. The project applicant coordinated extensively with both EPA and NYSDEC, and as discussed in the DEIS, prepared a modeling protocol which was reviewed by each of these agencies. However, the data used as the basis for the air quality modeling was not specific to the local topographic and climatic conditions of the project site and Town of Dover. A separate analysis should be conducted that uses actual meteorological measurements, air quality levels, and topographic conditions for the project site and Town of Dover. 32-15
2. General – Under the list of project approvals, New York State Petroleum Bulk Storage and Chemical Bulk Storage registrations should be identified. 32-16
3. Page 4-1 – The proposed project will be subject to the new Cross-State Air Pollution Rule (CSAPR) published on July 6, 2011, in response to the remanded CAIR Federal Implementation Plans (FIPs). The new CSAPR will require emission reductions beyond those originally required by CAIR through additional air pollution reductions from power plants beginning in 2012. In addition, the proposed project will be subject to the GHG reporting rule under 40 CFR Part 98. 32-17
4. Page 4-2 – In Table 4.1, the National Ambient Air Quality Standard (NAAQS) shown for lead is the previous standard, which has been superseded, effective Jan. 12, 2009 by a 3-month concentration of 0.15 micrograms per cubic meter. In addition, the 24-hour and 3-hour SO2 NAAQS are identified; however, these standards were replaced by the 1-hour SO2 standard, effective April, 12, 2010. The table should include a footnote to reflect the changes to the NAAQS. In addition, since the air quality analysis includes an analysis of these averaging periods, the DEIS should explain why these analyses were undertaken. 32-18
5. Page 4-6, second bullet – The GHG threshold under the Tailoring Rule for new projects is 100,000 tpy, not 75,000 tpy. 32-19
6. Page 4-10, Section 4.1.2.4 – The discussion of endangered species should reference the Natural Resources chapter. 32-20
7. Page 4-16 – Also applicable to PM limits in 227-1 per the latest PM SIP (not specified in the regulation). PM limited to 0.1 lbs/mmBtu. 32-21
8. Page 4-29, Section 4.3.3.1 – The LAER analysis for the combustion turbines and duct burners should include a discussion of the commercially available and emerging alternate technologies for NOx emissions control. This should include a discussion of the SCONOx technology, which has been installed in at least some operating power plants. 32-22
9. Page 4-31, Section 4.3.3.2 – The DEIS should clarify whether the NOx LAER determination for the auxiliary boiler is based on the use of ultra low NOx burner technology. This would seem to be the case since the proposed limit of 0.011 lb/MMBtu is identical to the Caithness Energy Project, which utilized this technology. 32-23

10. Page 4-36, Section 4.3.5.1 – The DEIS states that an oxidation catalyst for control of CO emissions from the auxiliary boiler is not considered cost effective. Supporting information should be provided to substantiate this, such as the estimated cost per ton of CO removed. 32-24
11. Page 4-59, Fourth Paragraph – Table 4-18 should be referenced as Table 4-19. 32-25
12. Page 4-61 – The referenced regulatory guidance used for the air quality impact analysis does not include the EPA guidance for 1-hour NO2, dated March 1, 2011. It does appear that the analysis utilized the recommendations in this memorandum; however, this should be confirmed, and the memorandum should be properly referenced. 32-26
13. Page 4-85 – The most recent NYSDEC short-term and annual guideline concentrations were published in October 2010. Table 4-30 should be revised as necessary to reflect any updated guideline concentrations. 32-27
14. The DEIS air quality analysis does not address the NYSDEC guidance document CP-33, Assessing and Mitigating Impacts of Fine Particulate Matter. Since the proposed project would emit greater than 15 tons per year of PM10, it is potentially subject to this policy. 32-28
15. The DEIS presents a plume visibility analysis in accordance with appropriate Prevention of Significant Deterioration (PSD) procedures to assess potential visibility impacts on state managed parks. An assessment was performed to evaluate the potential for a visible condensed water plume at two locations in the immediate vicinity of the proposed facility and is contained in Section 6.2, "Visual Resources and Aesthetics" instead of Section 4, "Air Resources." 32-29
16. There is EPA guidance for dealing with modeling terrain effects due to the possibility of plume downwash caused by nearby elevated terrain. The Good Engineering Practice (GEP) stack height analysis should account for elevated terrain in the vicinity of the project site, and the DEIS should be revised to include the findings of the study of terrain in the area. 32-30
17. Given the scale of the proposed project, and its proximity to a public school, it would be appropriate to locate a new air quality monitoring station in the Town of Dover, in a location such as the Dover Middle/High School property. NYSDEC may consider this an opportunity to collaborate with the Dover Middle/High School teachers and students in conducting on-going monitoring as part of a science curriculum. 32-31
18. Additional mitigation for anticipated air quality impacts should be provided locally. Mitigation could include additional tree planting and/or the permanent preservation of more open space. Cricket Valley Energy should consider establishment of a fund for implementation of habitat restoration, alternative fuel or energy conservation projects, or other mitigation measures within the Town over the life-span of the facility. 32-32

SECTION 5 – WATER RESOURCES

1. Page 5-19 discusses the use of treated effluent to meet all or a portion of the project's water needs. The possibility of using effluent from the Knolls of Dover project is mentioned but dismissed because of its stage in the approvals process. However, since the Knolls of Dover project is now further along in the process, the use of its wastewater should be reconsidered. 32-33
2. It is noted that the proposed project would have a minor impact on a well on Cricket Hill Road. Portions of Cricket Hill Road have a perched water table that causes flooding and septic system problems with residences. Will the proposed project have any impact on the perched water table of Cricket Hill Road? 32-34
3. The proposed project would have a minor impact on three off-site wells during emergency conditions. Mitigation for these off-site properties should be considered. 32-35

SECTION 6 – COMMUNITY RESOURCES

Land Use and Zoning

1. Page 6-5 incorrectly describes the status of the Rasco Materials facility. Town of Dover and NYSDEC review of this project has been completed. 32-36
2. Page 6-5 also incorrectly describes the project site and Rasco Materials site as unrelated to each other. They currently share the same access driveway off of Route 22, and Rasco Materials has historically used portions of Building E as part of their processing and storage. 32-37
3. Page 6-5 states that, "CVE will propose to the Town of Dover a lot line adjustment to straighten the boundary line between the CVE Property and the property to the South, where the Rasco Materials facility is located, in order to maintain the existing drainage swale for the CVE stormwater plan and to help incorporate a plant loop road within the proposed CVE facility fence line." This "lot line adjustment" is considered a subdivision application under the Town of Dover Zoning Code and should be noted as such in the DEIS. 32-38
4. Page 6-6 states that, "Once CVE purchases the land under option and the lot line adjustment has been approved, all leases on the CVE property would be terminated and any tenants would vacate the CVE site." The displacement of any businesses, including the portion of Rasco Materials operation that uses the project site, should be noted in the DEIS. Would Rasco continue to use the site to the south and would relocation of material stockpiles from the CVE property require Rasco to request a Site Plan amendment from the Town of Dover? Would the reconfigured Rasco property have sufficient room to allow Rasco to continue its operations? 32-39
5. Page 6-6 incorrectly states that, "The Project Development Area includes no zoning overlay districts." In fact, the Floodplain Overlay District extends onto the Project Development Area. A portion of the building footprint may fall within the Floodplain Overlay District. As such, the project will need to comply with the requirements of §145-13 "Floodplain Overlay District" of the Town Code. 32-40
6. Page 6-6 states that "CVE will work closely with town officials to determine how best to evaluate planning and zoning requirements" for the temporary laydown site. The permits and approvals required for this temporary use should be stated in the DEIS. 32-41
7. Table 6.1-2, "Cricket Valley Energy Consistency with Zoning Dimensional Requirements" should include the height of the proposed building exclusive of the proposed stacks. It is unclear if the building alone would be 113 feet. 32-42
8. The paragraph at the bottom of page 6-11, which describes the height variance required, should be clarified to explain how tall the building versus the smokestacks would be. 32-43
9. Pages 6-12 states that, "The grant of the variance to CVE will allow the elimination of the current grandfathered, pre-existing, nonconforming uses (i.e., the partially destroyed buildings) on the CVE site." This statement is not entirely accurate. These buildings were constructed prior to the adoption of the current Zoning Code, which means that there may be some pre-existing non-conforming setbacks, heights, or other structural or lot requirements. However, §145-24 of the Code would preclude any non-conforming uses from re-establishing; and any light industrial uses would be permitted to continue under a Special Permit by the Planning Board. 32-44
10. The DEIS should further discuss the potential community character impacts of the proposed Laydown Site. Although this is a temporary use of the site, it involves disturbance to a prominent landmark that was memorialized in the Asher B. Durand painting "Dover Plains." Plans for maintaining and re-establishing the agricultural use of the site and its presence in this viewshed should be described. 32-45
11. The DEIS should include a discussion of potential impacts to property values surrounding the facility. Specific data and analysis from areas surrounding existing electric generating facilities should be presented as evidence. 32-46

Visual Resources and Aesthetics

1. Page 6-22 describes the project site lighting. Visual photo-simulations of the project at night from off-site sensitive receptors should be provided. 32-47
2. It is noted that the proposed project will be visible from a number of locations, including Cricket Hill Road, Route 22, the Knolls of Dover, and the Dover Middle/High School. Although mere visibility does not constitute an impact, it will be substantially more visible than the existing smokestacks and water tower. A full-day crane or balloon test should be scheduled with sufficient public notice to allow local officials and residents to witness the test. 32-48
3. Page 6-29 states that the modeling does not indicate that the Appalachian Trail falls within areas from which the project is anticipated to be visible. However, Figure 6.2-1 highlights several portions of the trail in yellow, which denotes potential visibility. The potential views from the Appalachian Trail should be further assessed. 32-49
4. A photo-simulation of the views of the project site from the Swamp River should be provided. This resource is enjoyed by many members of the public, and the potential impacts should be evaluated from a natural resource as well as community character/visual impact perspective. 32-50

Traffic

1. Section 6.3.2.4 School Bus Routes and Schedules should more fully describe how potential conflicts with construction vehicles and school traffic would be managed or avoided. 32-51

Noise

1. The DEIS states that the proposed project will not meet the Town of Dover noise regulations at the west and south property lines. The west property line is adjacent to the Metro-North Railroad tracks, and the south property line is adjacent to the Rasco Materials site. Both properties are in the M Zoning District. The applicant proposes to amend the Town of Dover Zoning Code to allow up to 60 dB(A) between the hours of 8:00 p.m. and 7:00 a.m. where two M zoned properties abut. The proposed project is anticipated to generate 58 dB(A) at the proposed south property line, and 59 dB(A) at the west property line. We offer the following comments in regards to this proposed amendment:
    a. The DEIS should analyze the potential impacts of this zoning amendment on other qualifying properties in the Town of Dover. While the project site is buffered by project owned land to the west, and other industrial properties to the south, there may be other M zoned properties in the Town that do not have a sufficient off-site buffer to protect nearby residences and sensitive receptors. 32-52
    b. The applicant should consider other alternatives for mitigating the noise on their property. For example, the Rasco Materials property and the property to the south of that parcel are owned by Howlands Lake Partners, LLC, which is the same entity that currently owns the project site. If the applicant were to purchase additional property to the south, and merge the parcels into one, they would be able to meet the Town of Dover noise regulations at the southern property line. As demonstrated by the DEIS, the noise levels to the south sufficiently dissipate before they reach the residential properties on North Chippawalla Road. 32-53
2. A request was made at the public hearing to demonstrate the proposed noise levels on the project site. Similar to a balloon test to demonstrate the visibility of a project, noise should be produced on the project site for a set period of time that would replicate the anticipated noise levels of the project. The noise test should be noticed in local newspapers, on the Town's website, and on signs along Route 22. 32-54

Cultural Resources

1. As part of its review of the proposed project, did the NYS OPRHP conduct any on-site reviews of the project? While the project site buildings are in substantial decline, they do represent a period of 32-55

Dover's industrial history and have connections to a significant wartime effort. Certain building elements may warrant further study and documentation prior to demolition. 32-55 cont.

Socioeconomic

1. The DEIS states that the proposed project will seek economic development assistance through the Dutchess County Industrial Development Agency (IDA), which would exempt the property from real property taxes. However, to ensure that the local community receives economic benefits from the project, IDAs are authorized to negotiate a payment in lieu of taxes (PILOT) agreement. The Town of Dover and the Dover Union Free School District should be directly involved in establishing an appropriate PILOT agreement for the project. 32-56
2. In the analysis of potential impacts to local fire and emergency service providers (Section 6.7.3.3.2), the DEIS indicates that a "Comprehensive Site and Safety Plan (CCSP)" would be prepared in the future to ensure proper training and safety of local emergency service providers entering the site. The CCSP should be developed now and should include identification of the types and intensities of potential emergency situations that may arise at the facility. Only after the CCSP has been reviewed in cooperation with the J.H. Ketcham Hose Company can it be determined whether J.H. Ketcham has the equipment and resources to respond to an emergency situation. 32-57
3. The J.H. Ketcham Hose Company currently has a 75-foot aerial ladder truck. The fire department should be consulted as to whether this would be sufficient to service a 113 foot tall building. As mitigation for the proposed project, additional fire equipment may be necessary. 32-58

ALTERNATIVES

1. The proposed Water Supply Alternatives should consider phasing in the use of treated effluent from the Dover Knolls project as it is constructed and occupied. 32-59
2. The use of alternative energy sources to supplement the project and offset the burning of fossil fuels should be considered. 32-60

OTHER ENVIRONMENTAL IMPACTS

1. The DEIS should consider the burning of Natural Gas an Irreversible and Irretrievable Commitment of Resources. 32-61
2. The Growth-Inducing Aspects of the Proposed Action should further evaluate whether the proposed project, and increased availability and reliability of energy, would increase energy usage and generate growth. 32-62
3. The dispatch analysis, and any other relevant data, should be used to enhance the argument that the proposed project would displace older facilities. 32-63

Sincerely,
AKRF, INC.

Graham L. Trelstad, AICP
Senior Vice President, Director of Planning

cc: Town of Dover Town Board
Joseph Berger, PE, LS
Tom Jacobellis, Esq.

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June 21, 2011

Supervisor Ryan Courtien
and Members of the Town Board of the Town of Dover
126 East Duncan Hill Road
Dover Plains, N.Y. 12522

Re: Cricket Valley Energy Project
Draft Environmental Impact Statement

Dear Supervisor Courtien and Members of the Board:

Cricket Valley Energy DEIS / Stormwater

Volume 2, dated April 2011, prepared by Arcadis

Review Comments -- Appendix 5-A: Preliminary Stormwater Pollution Prevention Plan, dated July 16, 2010, prepared by The Chazen Companies

- Proposed for the project is the use standard stormwater management practices and green stormwater practices to treat the runoff generated new impervious areas.
    1. Wet Extended Detention Pond -- Standard practice for attenuation of peak and quality treatment.
    2. Bioretention -- Green practice which filters and infiltrates runoff for quality treatment and runoff reduction.
    3. Stormwater Reuse -- Green practice which captures runoff from roofs to be used as water source for facility operation. In this case to contribute to the fire water storage tank. This provides runoff reduction.
- The proposed stormwater control of post development runoff rates to pre-development levels is to be achieved by:
    1. Redirecting some of the runoff to the fire storage tank.
    2. Infiltration in the bioretention areas.
    3. Temporarily storing stormwater in the detention pond and controlling the release to not exceed pre-development levels.
- The applicant proposes to seek a waiver from the NYS DEC to disturb more than 5 acres at any one time. Additional erosion and sediment control inspections and stabilization measures are proposed for when greater than 5 acres is open.
- The proposed erosion and sediment control measures encompass the majority of the common practices including sediment traps.

Review Comments -- Appendix 5-B: Conceptual Stormwater Report, Off-Site Construction Parking and Laydown Area, dated October 1, 2010, prepared by The Chazen Companies

- Proposed for possible use in this part of the project is the use standard stormwater management practices and green stormwater practices to treat the runoff generated new impervious areas.
    1. Micropool Extended Detention Pond -- Standard practice for attenuation of peak and quality treatment.
    2. Pocket Pond -- Standard practice for attenuation of peak and quality treatment.
    3. Infiltration Basin -- Green practice which detains and infiltrates stormwater providing runoff reduction and quality treatment.
    4. Bioretention -- Green practice which filters and infiltrates runoff for quality treatment and runoff reduction.
    5. Dry Swales -- Standard practice which filters and infiltrates stormwater for quality treatment and runoff reduction.
- The proposed erosion and sediment control measures encompass the majority of the common practices including sediment traps.
- Specific practices have not been chosen.
- Report is less developed that Appendix 5-A but does provide general information for storm water measures that when fully designed could meet the town requirements.

No design plans and details were provided with the DEIS. The reports in Appendix 5-A and Appendix 5-B are sufficient for DEIS level in that they provide the necessary building blocks to develop storm water control and treatment, and erosion and sediment control plans which would meet the town requirements for limiting the impact runoff from the project will have on the town. When a chapter 65 permit is prepared site specific details and practices should be provided.

32-64

If you have any questions please feel free to call me at 845-471-7383 x 105 or email me at bergerengineering@hvc.rr.com.

Sincerely

Joseph P. Berger P.E., L.S., CPESC, CPSWQ

Entergy

Entergy Services, Inc.
440 Hamilton Avenue
White Plains, NY 10601

T. Michael Twomey
Vice President, External Affairs - Wholesale

August 5, 2011

Stephen M. Tomasik
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RE: Comments on Cricket Valley Energy Center Draft Environmental Impact Statement

Dear Mr. Tomasik:

Introduction

Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC (collectively, "Entergy Indian Point") respectfully submit these comments to the New York State Department of Environmental Conservation ("NYSDEC") regarding the Draft Environmental Impact Statement ("DEIS") for the Cricket Valley Energy Center (the "Project") submitted by Cricket Valley Energy Center, LLC (the "Applicant"). The Applicant, an LLC owned by a Swiss-based parent (*see,* http://www.cricketvalley.com/about-us.aspx) that does not claim to own or operate any existing utility plant in the United States or elsewhere (*see* http://www.advancedpower.ch), proposes to build a fossil-fuel burning power plant within and adjacent to protected wetlands of municipal, State and regional significance, without performing, as detailed below, the required environmental analyses that Entergy Indian Point has been required previously to perform, and that Entergy Indian Point will continue to perform, with respect to its own continued operations.

Briefly, Entergy Indian Point and an affiliate, Entergy Nuclear Fitzpatrick, LLC, separately own three of the six operating nuclear-electric generating units located in New York. Entergy Indian Point, located on the Hudson River in Westchester County, and the James A. FitzPatrick Station ("FitzPatrick"; collectively, the "Stations"), located on Lake Ontario, have a cumulative capacity of approximately three thousand (3,000) megawatts ("MW") or 3 Gigawatts ("GW," representing a billion watts). *See,* http://www.entergy-nuclear.com/plant_information/allSites.aspx http://www.entergy-nuclear.com/plant_information/indian_point.aspx *and* http://www.entergy-nuclear.com/plant_information/fitzPatrick.aspx. The Stations collectively produce approximately 16% of New York's electricity, on a day-in, day-out basis, with Entergy Indian Point providing a substantial percentage of metropolitan New York's electricity, and therefore anchor the baseload supply that advances the electric-system reliability and affordability goals that underpin the New York economy. The operation of New York's six nuclear power plants, and the operation of Entergy Indian Point in particular, further federal and

state goals of reducing emissions of criteria pollutants in New York State (*see, e.g.,* http://www.dec.ny.gov/chemical/ 72352.html), especially in the non-attainment area of downstate New York, and of advancing New York's climate change goals. Within New York, the Stations also employ approximately 1,800 persons on a full-time basis with highly favorable compensation and benefits terms, with an average of 500 persons employed at each site to manage the facilities in a safe, secure and vital manner. *See generally,* http://www.entergy.com/content/investor_ relations/pdfs/ 2009_Investor_Guide.pdf.

Entergy Indian Point and its ultimate parent corporation, Entergy Corporation, are committed to environmental stewardship, as evidenced by the recognition Entergy Corporation has received for its environmental performance and work to promote sustainability. On the strength of its industry-leading environmental performance, Entergy Corporation has been listed on the Dow Jones Sustainability North America Index for nine consecutive years and on the Dow Jones Sustainability World Index for five consecutive years – a distinction held by no other U.S. utility company. *See*, http://www.entergy.com/News_Room/newsrelease.aspx? NR_ID=1874. Entergy Corporation also has been a leader in supporting energy efficiency efforts, recycling and waste reduction, and wetlands restoration, including through its major contributions to the work of the Restore America's Estuaries organization and other initiatives focused on the Gulf Coast. *See*, http://www.estuaries.org/entergy-rae-join-forces-to-rebuild-louisiana-wetlands.html. Entergy Corporation further was recognized by the SAM Sustainability Yearbook as one of the top 15 percent of companies committed to sustainability in its sector worldwide. *See*, http://www.pwc.com/gx/en/ sustainability/publications/SAM_Yearbook _2011.pdf. These diverse awards underscore Entergy's Indian Point's commitment to sustainability and the environment.

The Applicant has stated that it will offset existing power production from existing facilities that it describes without explanation as more environmentally objectionable. *See, e.g.,* DEIS, p. 1 ("The facility will . . . provide reliable baseload electric generating capacity to the New York State power grid while improving air quality through the displacement of less efficient and higher polluting generating facilities."); *see also* http://www.cricketvalley.com/ home.aspx (last consulted July 25, 2011).

There is no clear basis in the DEIS for concluding that, in the context of New York's current generation source mix, the Project will advance New York's electric system, air quality and climate change goals, or be constructed and operated in reasonable conformity with New York environmental requirements. There is likewise no basis in the DEIS for concluding that the Project's disruption to community character, whether based on height, sound or the impacts to the Great Swamp watershed, are offset by the prospect of socio-economic or employment benefits to the region. To that end and as detailed below, Entergy Indian Point respectfully identifies certain questions and concerns regarding the Project's DEIS, particularly those identifying the Project's inconsistency with New York environmental, municipal and energy law, that require redress before a final environmental impact statement that conforms to New York law may be issued, and the Project may, if appropriate, proceed.

33-1

Background

The Applicant is proposing to construct, own and operate a 1,000 megawatt natural gas-fired electric generating facility in the Town of Dover, Dutchess County, NY. DEIS, p. 1-1. The Applicant has stated that construction is planned to begin in early 2012, with commercial operation planned to begin in early 2015. DEIS, p. 1-3. The Project is being reviewed under the New York State Environmental Quality Review Act ("SEQRA") as a Type I action, which reflects NYSDEC's determination, as Lead Agency, that the Project may have a significant adverse impact on the environment. DEIS, p. 1. To that end, NYSDEC issued a positive declaration on May 3, 2010 requiring the preparation of the DEIS. *See* http://www.dec.ny.gov/docs/permits_ej_operations_pdf/cvposdec.pdf. The Applicant submitted the DEIS, which must be employed to establish how the Project may move forward in a manner that does not compromise the environment.

The proposed Project's location requires particular mention; a significant portion of the approximately 131-acre project site falls within wetlands that have been designated as a Critical Environmental Area ("CEA") under 6 NYCRR § 617.14(g) for its exceptional natural resource value and benefits to human health, a classification echoed by several local municipalities within the scope of their jurisdiction. *See* Section 1.a, below. The CEA designation requires that potential adverse effects to the Great Swamp be given special consideration during the SEQRA review process to ensure that any proposed Type 1 actions will not adversely affect the characteristics of the CEA supporting its designation. *See* 6 NYCRR § 617.14(g)(4). Because of the proximity of the Project activities to the CEA, this Project is particularly deserving of careful scrutiny. We are concerned that the DEIS does not meet the required level of scrutiny, but rather reflects an insufficient assessment and a worrisome lack of transparency.

The proposed Project consists of three separate F-class technology combustion turbines, heat recovery steam generators, and steam turbines that will be utilized in combined cycle mode. DEIS, p. 1-6. Several large storage tanks will be constructed, including 1,000,000-gallon and 250,000-gallon water storage tanks (reflecting water consumption needs discussed below), as well as a 30,000-gallon aqueous ammonia storage tank. DEIS, p. 1-17. In addition, the Site will house one 650-gallon, and four 1,000-gallon, diesel storage containers and tens of thousands of gallons of various hazardous chemicals in containers, ranging in size from 55-gallon drums to 12,000-gallon tanks. DEIS, p. 1-26, 27. Construction of the Project's buildings and these tanks will require demolition of existing structures, significant grading of the surface, and may require blasting to reach competent bedrock. *See* DEIS 2.3. The Project will obtain process water from newly drilled on-site bedrock wells, consuming between 82,548 and 87,508 gallons per day ("gpd") in the summer and between 16,620 and 21,300 gpd in the winter (*see* DEIS, p. 5-17) or an average of almost 15 million gallons per year. *See* DEIS, p. 5-18. Because of the projected water consumption for the Project, combined with historic contamination at the site and its proximity to the Great Swamp CEA, alteration of local (and potentially regional) groundwater flow regimes and the potential migration of contaminants into the CEA is a significant concern.

Proposed potential emissions of air pollutants from the facility include approximately: 280 tons per year ("tpy") of nitrogen oxides ("NOx"); 118 tpy of Volatile Organic Compounds ("VOC"); 570 tpy of carbon monoxide ("CO"); 192 tpy of particulate matter (including $PM_{2.5}$

and PM_{10}); 47 tpy of sulfur dioxide ("SO_2"); 20 tpy of sulfuric acid ("H_2SO_4"); 3.6 million tpy CO_2 equivalents of greenhouse gases ("GHG"); and 4.3×10^{-4} tpy of lead ("Pb"). DEIS, p. 4-4. Except for Pb, all of these pollutants exceed federal major source emission thresholds and significance levels, and as such, depending on the Project area's attainment status, are subject to either Prevention of Significant Deterioration ("PSD") review or Nonattainment New Source Review ("NNSR"). *Id.* Because of New York's non-attainment status for several criteria air pollutants (*see* http://www.epa.gov/oar/oaqps/greenbk/ancl3.html) and the Project's GHG emissions, which cannot be reconciled with New York's air quality goals when lower sources of emissions are available and can be constructed, the Project's operations merit careful scrutiny.

The proposed Project as described in the DEIS is out-of-place next to the Great Swamp and in rural Dover. The Project will involve: construction of 11 large buildings or other structures ranging from 15 to 113 feet in height and covering more than 3.5 acres, as well as three 282.5 foot exhaust stacks. *See* DEIS, pp. 1-11, 12. Sound impacts require modification of the municipal zoning code, or otherwise cannot be authorized. The Project's lack of conformity with local zoning laws, and the implications of this non-conformity on the local community, merit careful scrutiny.

1. The Project Threatens a Valuable Natural Resource, the Great Swamp

a. The Great Swamp Is an Important Natural Resource

The 74 acres of the property located west of the railroad tracks, including 45 acres that comprise two hydrologically linked wetlands (identified as Wetlands 4 and 5 in the DEIS), are a part of an important New York State natural resource, the Great Swamp. *See* DEIS, p. 3-5. Attesting to its ecological value, NYSDEC has listed the Great Swamp as a Critical Environmental Area (*see, e.g.,* http://www.dec. ny.gov/docs/permits_ej_operations_pdf/ greatswamp.pdf) and has listed a portion of the swamp as a Wildlife Management Area. *See, e.g.,* http://www.dec.ny.gov /outdoor/68929.html. (For general descriptions of the Great Swamp and its ecological importance to New York, consult the Nature Conservancy's website at: http://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/newyork/ placesweprotect/easternnewyork/wherewework/eastern-great-swamp.xml, and the Friends of the Great Swamp website at: http://frogs-ny.org/AboutSwamp.shtml.) In addition, Wetlands 4 and 5 are a component of state wetland DP-22, which is classified by NYSDEC as "Class I" wetland providing the highest level of wetland functions and environmental benefits. *See* DEIS, Appendix 3-A, p. 6 *and* http://www.dec.ny.gov/imsmaps/ERM/viewer.htm; *see also* 6 NYCRR §664.5.

Located only 50 miles north of New York City, the Great Swamp is one of the largest freshwater wetlands in the State, stretching nearly 20 miles across the five municipalities of Southeast, Patterson, Town of Pawling, Village of Pawling and Dover. *See, e.g.,* Friends of the Great Swamp: http://frogs-ny.org/Science1.shtml. The Great Swamp covers an area of more than 6,000 acres[1] that is fed by two watersheds, totaling some 63,000 acres, divided at the Town

[1] NYSDEC's website lists CEAs by county and contains two maps that together show the full extent of Great Swamp CEA. The first map identifies the portions of the Great Swamp CEA in the towns of Dover and Pawling

of Pawling. *See* DEIS, p. 3-4; *see also* http://frogs-ny.org/AboutSwamp.shtml. From the Town of Pawling and areas south, water flows southward into the Croton River and eventually into East Branch Reservoir. North of Pawling, the water flows northward in the Swamp River, through the Town of Dover and into Ten Mile River. The Ten Mile River flows south into the Housatonic River and eventually into Long Island Sound. *See, e.g.*, http://frogs-ny.org/About Swamp.shtml.

The Great Swamp provides important regional ecological services, improving water quality and filtering out sediments and pollution, which maintains a clean, dependable source of drinking water directly for Dutchess, Putnam and Westchester Counties and indirectly (via the Croton Reservoir System) to New York City. *See, e.g.,* http://www.dec. ny.gov/docs/permits_ ej_operations_pdf/greatswamp.pdf. The Great Swamp also acts as a giant "sponge" for rainwater, reducing flooding, while it advances New York's recreational and scenic goals. *See, e.g.*, http://frogs-ny.org/AboutSwamp.shtml. For the more than 40,000 residents who live within the swamp's watershed, a number expected to rise to 88,000 by 2040, the Great Swamp is a vital, if perhaps inadequately recognized, resource. *See, e.g.*, Housatonic Valley Association at: http://www.hvatoday.org/show.cfm?page=/NewYork.htm.

In addition, the Great Swamp supports well over 30 animals, plants, and natural communities listed as rare in New York State, including ten species of amphibians and reptiles, various flora, including the Atlantic White Cedar, Spreading Globeflower, Fielddodder, and Blazing-star, and Rich Sloping Fen and Rich Graminoid Fen communities. *See*, DEIS p. 3-2; *see also* http://frogs-ny.org/Animals1.shtml *and* http://frogs-ny.org/Biodiversity.shtml. Included among the wildlife found in the Great Swamp are the bog turtle (*Clemmys muhlenbergii*), which is listed as "threatened" (*i.e.*, "likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range") under the federal Endangered Species Act (62 Fed. Reg. 59,605 (Nov. 4, 1997)), and as "endangered" (*i.e.*, "in imminent danger of extirpation or extinction in New York State") under New York State's Endangered Species Regulations, *see,* 6 NYCRR § 182.2(e); *see also* http://www.dec.ny.gov/animals/7164.html. The Great Swamp is also habitat for several "species of special concern" (*i.e.*, "species for which a welfare concern or risk of endangerment has been documented") in New York state, *see,* 6 NYCRR § 182.2(u), including the wood turtle (*Clemmys insculpta*) and the spotted turtle *(Clemmys guttata).*[2] The Great Swamp also is home to more than 90 species of birds, and serves as a major migration stopover for many more. *See, e.g.,* J. Utter "Birds of the Great Swamp" at http://frogs-ny.org/BirdsOfSwamp.shtml.

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and in the Village of Pawling in Dutchess County. *See* http://www.dec.ny.gov/docs/permits_ej_ operations_pdf/greatswamp.pdf. The second map identifies the portions of the CEA in the Towns of Patterson and Southeast in Putnam County. *See* http://www.dec.ny.gov/docs/permits_ej_operations _pdf/greatswamp2.pdf. Although reports of the exact size of the Great Swamp vary by source, estimates generally exceed 6,000 acres. *See, e.g.*, DEIS at 3-4; http://www.frogs-ny.org/AboutSwamp.shtml; http://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/newyork/placesweprotect/easternnewyor k/wherewework/eastern-great-swamp.xml.

[2] Habitat distribution maps on NYDEC's website for endangered and threatened species and species of special concern indicate that these animals, and more, occur in the Great Swamp and surrounding areas. *See,* http://www.dec.ny.gov/animals/7494.html.

Again, the Great Swamp has been designated as a CEA by NYSDEC under 6 NYCRR § 617.14(g) for its exceptional natural resource value and for its benefit to human health. *See*, http://www.dec.ny.gov/docs/permits_ej_operations_pdf/greatswamp.pdf *and* http://www.dec.ny.gov/docs/permits_ej_operations_pdf/greatswamp2.pdf. Local municipalities have echoed the NYSDEC listing. For example, the Town of Dover Master Plan specifically mentions the Great Swamp as the "largest and best example of a true wetland community in the region" that is "home to many rare and endangered species" and provides important habitat for migratory birds. *See* Town of Dover Master Plan, p. 33, *available at* http://townofdoverny.us/Master_Plan.cfm. In its summary and recommendations, the Dover Master Plan sets out the following goals for natural resources: "To protect and provide proper stewardship for the natural resource base on which the quality of life in Dover depends." *Id.* at 95. To accomplish this goal, the Master Plan recommends that the Town "discourage the development and encourage permanent protection of state-regulated wetlands and their 100-foot buffers," (*Id.*) as well as prohibit uses in the federally designated 100-year floodplain which includes portions of the Great Swamp. *Id.* at 96. The Great Swamp also is identified as an Important Bird Area by Audubon New York because it is "a large, high quality wetland that supports an exceptional representative bird community," (*see* http://iba.audubon.org /iba /viewSiteProfile.do?siteId=756&navSite=state) and it is listed as a Priority Conservation Project in the 2009 New York State Open Space Conservation Plan, which states that "[t]his vital and fragile natural resource needs to be safeguarded from further development and associated runoff." *See* 2009 New York State Conservation Plan, p. 71, *available at*: http://www.dec.ny.gov/docs/lands_forests_pdf/ osp09complete.pdf.

As has been widely reported, the ecological health of the Great Swamp is at risk from new development within the watershed – particularly, large-scale, industrial development which may impair the ecological and hydrological function and value of the Great Swamp, alter regional surface and groundwater patterns, disrupt recharge for the resource and create siltation and contaminant transport that can accompany large-scale industrial development, absent careful controls. *See, e.g.*, http://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/newyork/placesweprotect/easternnewyork/wherewework/eastern-great-swamp.xml. As such, any activity that may adversely affect the Great Swamp must be carefully reviewed in the SEQRA process to ensure that such adverse affects are avoided.

b. The Project's Water Consumption Likely Will Affect the Great Swamp in a Manner that Has Not Received Adequate Analysis or Assurances

As noted above, the Project will consume approximately 15 million gallons of water per year, primarily to supply evaporative coolers and to replace steam cycle losses. The DEIS presents the results of an aquifer pump test as evidence that the bedrock groundwater wells will supply the plant's long-term water needs without impacting the Swamp River. *See*, DEIS, sect. 5.4. The testing, however, is insufficient to support this conclusion. To perform the pump test, the wells were pumped for a period of either 72 or 96 hours while water depth and hydraulic head indicators (piezometers) installed "at least 18 inches into the sediment" (DEIS, p. 5-27) near the Swamp River were monitored for effects of the pumping (*i.e.*, a decrease in water level).

The DEIS reports that the piezometers showed "no observable impact to the monitored water levels due to the pumping test." *Id.*

To the contrary, the Site Water Budget Report included in the DEIS states that "the proposed project withdraws groundwater from aquifers which otherwise naturally support baseflow entering the Swamp River" and notes the pump test shows that, because the primary water source (Well 4) "draws water from such deep portions of the aquifer, there is a considerable delay, measured at least in days and likely measured in weeks, between when a peak pumping rate begins and when associated flow reductions could begin to reduce aquifer outflow rates entering the Swamp River." Appendix 5-C, p. 6. Thus, the Water Budget Report acknowledges that there is indeed a measurable, though delayed, impact of pumping from the Project's primary water well in the deep bedrock aquifer and indicates that the tests performed likely do not indicate the true extent of groundwater impact. As a result, the withdrawal of 15 million gallons per year from the Swamp River groundwater recharge area could potentially adversely affect the Great Swamp and the Swamp River, particularly during the dry summer season, when the plant could be withdrawing up to 87,000 gallons per day from the watershed. Such a loss of water input could reduce the flow of the Swamp River and adversely affect the Great Swamp and its riparian habitats.

33-2

In particular, the reduced water flow could adversely impact Wetlands 4 and 5, which, as noted, are within the Great Swamp. According to the Site Water Budget Report, the pumping test revealed a similar delayed effect on the Wetlands 4 and 5 located to the west of the railroad tracks. These 45 acres of wetlands also could be permanently damaged or lost by the reduction in groundwater recharge caused by the plant's operation. As noted in the DEIS, these wetlands are NYSDEC-jurisdictional and are therefore protected under the NYSDEC Freshwater Wetlands Program (6 NYCRR Parts 663, 664 and 665), which regulates activities within freshwater wetlands such as filling, draining, excavating, grading and dredging. Although no actual digging, filling, excavating, grading or dredging will occur in these wetlands, a loss of water input which could change the functions and values of the wetland constitutes a direct impact which must be considered in the SEQRA review process.

33-3

In addition, Wetlands 4 and 5, if connected to a navigable water way (*i.e.*, waters of the United States), would be subject to federal regulation under Section 404 of the Clean Water Act ("CWA") (33 U.S.C. § 1344) and the federal "no net loss" of wetlands policy.[3] These wetlands were not included in the United States Army Corps of Engineers ("USACE") jurisdictional review of the Project's wetlands, reportedly because no project work is proposed in this area. DEIS, p. 3-14. Nonetheless, Wetlands 4 and 5 assuredly would fall under federal jurisdiction as they are directly adjacent to the Swamp River, a navigable water way. The DEIS concedes as much in acknowledging that Wetland 2 is subject to USACE jurisdiction because it is hydrologically connected to Wetlands 4 and 5. Because these wetlands might be adversely impacted (*i.e.*, permanently altered or lost) due to the Project's withdrawal of water, they are

33-4

[3] The U.S. Fish and Wildlife Service ("FWS") "no net loss" of wetlands policy is articulated in document 660 FW 1, Wetlands Policy Action Plan, *available at*: http://www.fws.gov/policy/660fw1.html. Under this policy, "no net loss" means that "wetland losses must be offset by wetland gains in terms of actual acreage and, to the extent possible, ecosystem function." *See* § 1.6.

subject to federal permitting under CWA § 404. As such, any wetlands mitigation plan for the Project to satisfy the federal no-net-loss policy must include potential impacts to these two wetlands. These deficiencies should be adequately considered and remedied.

33-4 cont.

c. *The Project's Water Consumption May Destroy Bog Turtle Habitat in the Great Swamp, Requiring a Full Section 7 Consultation*

As described above, the Great Swamp provides important habitat for many rare and threatened or endangered species, including the bog turtle.[4] The DEIS includes a July 20, 2009 letter from the U.S. Fish and Wildlife Service ("FWS" or "Service") stating that although the Service "has no information regarding the plans for this site" it "has concerns about potential impacts to Federally-listed species [including the bog turtle] from the proposed project." *See* Appendix 3C- Part 2. Presumably in response to the Service's concerns, the DEIS reports the results of a habitat survey of the proposed Project area which concludes that the property contains no potentially suitable bog turtle habitat (*i.e.*, shallow, slow moving water and deep muck pits), thereby precluding any direct impacts on the turtle. DEIS, p. 3-29. Based on its assertion that the groundwater withdrawals will have no effect on the Great Swamp, or the Swamp River, the DEIS also concludes that potential indirect impacts on the bog turtle will be insignificant. *See* DEIS, p. 5-1. However, as discussed above, the DEIS's assertion that the groundwater withdrawals will have no impact on Wetlands 4 and 5 west of the railroad track has not been clearly demonstrated. The reduction of water flowing into the Great Swamp could destroy important habitat for the bog turtle, necessitating appropriate action under the federal and/or state Endangered Species Acts. Therefore, FWS must be informed of the Project's potential to impact the Great Swamp and a full consultation pursuant to Section 7 of the Endangered Species Act must be undertaken to ascertain the impacts on the bog turtle.

33-5

d. *The Project May Impair Water Quality Entering the Great Swamp*

The construction and operation of the Project will involve substantial soil disruption at a former industrial facility with documented site contamination and also create acres of impervious surface. Although the Project has a Stormwater Pollution Prevention Plan (*see* DEIS, sect. 5.6), this is no guarantee that the contaminants associated with construction-related activities, as well as inevitable spills of the various hazardous substances that will be kept on site during operation, will not make their way into the Great Swamp. Given the reported ecological value of the Great Swamp, we respectfully question the location of this new facility within the watershed of, and adjacent to, the Great Swamp. Certainly, it is hard to understand how the Project can be reconciled with the Dover Master Plan's goal of "discourag[ing] the development and encourag[ing] permanent protection of state-regulated wetlands and their 100-foot buffers," and prohibiting uses in the federally designated 100-year floodplain which includes portions of the Great Swamp.

33-6

[4] When the FWS listed the bog turtle as threatened, it did not designate any "critical habitat" as required under Section 3 of the Endangered Species Act, finding that the risks associated with designation of critical habitat due to illegal collecting outweighed any benefits of such designation. *See* 62 Fed. Reg. 59,605 (Nov. 4, 1997).

33-7

2. The Proposed Site Is Extensively Contaminated and Poses a Serious Risk of Releases to the Environment, Necessitating a Comprehensive Site Assessment

a. Observed Contamination and Potential Sources of Releases to the Environment

The Project site has significant existing contamination. Section 2.2.1.1 of the DEIS provides a narrative description of the significant buildings and structures on the Site, their generally poor condition, and their contents and surrounding areas. As summarized below, the Project site is littered with debris and wastes indicative of poor historic materials and waste management practices, including pails, drums, tanks and other containers of oil or hazardous materials. Waste appears to be located not only in the area of formerly active industrial buildings but also "near the edge of [the] woods," in wetlands, and other areas of the Site indicating routine dumping of materials outside the area of these activities and in sensitive resource areas. *See* DEIS, pp. 2-5, 6. These descriptions identify numerous potential sources of releases of oil or hazardous materials to the environment, including the presence of fifty-five gallon drums dispersed around the Site, peeling paint, historic debris piles and waste from historic industrial operations. For example:

- Building A: peeling paint and an empty 500-gallon aboveground storage tank;
- Building C: numerous 55-gallon steel and cardboard drums, ash/wood fragments, old machinery, brick, trash, a "white precipitate material … seeping from the second floor to the first floor," three pole transformers, tires, welding canisters, and empty overturned above ground storage tanks;
- Building D: debris similar to a portion of Building C, including empty 55-gallon drums and foam insulation;
- Building E: foam insulation, tires, empty 5-gallon oil pails, empty 55-gallon drums, empty drums labeled "liquid potash," several large soil piles, an approximately 20,000-gallon aboveground storage tank found "empty and lying on its side," and a flat bed trailer;
- Building F: several abandoned trucks and machines were parked adjacent to the building;
- Building G: several empty 55-gallon steel drums, shelves (above pervious services) containing "open and closed (some containing liquid and others empty) 5-gallon pails of 'Super X VOC AIM'" – a hydrocarbon oil blend;
- Building H: several 55-gallon drums and burned wood adjacent to the building along with several metal racks;
- Gas Holder: open portals were noted near the bottom of the holder, and to the west of this structure "(near the edge of the woods) is a large waste disposal area of concrete and brick remnants;"

- Steel Building and Large Storage Tank: two approximately 500-gallon aboveground storage tanks that "appeared to be empty and no signs of staining on surrounding soils were evident."

See DEIS, pp. 2-2 through 2-5.

In addition to these conditions, several areas of historic waste disposal were identified around the Site:

- A swale running from the northern end of Building C to a wetlands area contained "deposits of tire chips, as well as a white, hard, chalky substance likely associated with the previous magnesium extraction operations. The substance forms the banks of the swale and enters the wetland. The bottom of the swale consists of a soft, mucky tan to yellow sawdust material … Industrial and general debris is littered throughout the swale and continues into the wetland."

- "The wetland is bordered to the southwest by a berm consisting of a mixture of both general and industrial debris and the white chalky material (slag) … The western and northern edges of the wetlands are also bordered by berms consisting of the same general and industrial debris, mixed with the white chalky substance (slag) …"

See DEIS, pp. 2-6 through 2-7.

b. Prior Site Investigations

Section 2.2.1.3 of the DEIS summarizes prior Project site investigations, which number only three, with the most recent dating to 1995 – sixteen (16) years ago. The final reports of these investigations are not provided in the Appendix to the DEIS, and, therefore, it is not possible to compare their scope to the apparently comprehensive and ubiquitous evidence of releases around the Site. These reports must be made available for public review as part of the DEIS in order to allow the public to assess the accuracy of the DEIS representations. Below, we identify the substantial issues raised by the DEIS summaries of those reports:

33-7 cont.

i. Phase II Investigation, Mica Products Corporation (1991)

The summary of this report does not provide a description of the areas investigated, the number of soil and/or groundwater samples collected, or the scope and extent of identified contamination. *See* DEIS, pp. 2-7, 8. The study appears to be limited in its scope to the activities of the Mica Products Corporation, rather than a more comprehensive assessment of the Site as a whole, and apparently found at least "[t]wo areas, believed to be isolated and not indicative of widespread impacts, … to have low-level volatile and semi-volatile contaminants in soil, probably due to a minor source of tar or residual petroleum product." DEIS, p. 2-8. There is no discussion as to why these were "believed" to be isolated instances of contaminants. Further investigation of documented contamination to identify its full scope and extent is the norm. Apparently, this report recommended that the investigated area be "closed as a nonhazardous industrial landfill" and that "[c]losure would then prevent the continued leaching of metals and

33-8

other products to the groundwater and adjacent surface waters." *Id.* Given the state of the Site as currently characterized, it would appear that no efforts to close the Project site as recommended were actually undertaken, implying that these areas remained opened for an additional 20 years (and counting). Certainly, there is no evidence of closure in conformity with applicable New York law relating to solid (or potentially hazardous) waste landfills. These deficiencies must be remedied.

33-8 cont.

ii. Waste Characterization Report (1994)

The summary of this report indicates that twenty-one soil samples were collected from four specific waste disposal areas. *See* DEIS, p. 2-8. It does not indicate how large these areas were, how many waste disposal areas went uninvestigated on the Site or how representative these four areas are as compared to the Site as a whole. "A composite sample of the disposal areas did not indicate hazardous waste thresholds were exceeded," *Id.*, but the more relevant question is not addressed – whether any of the waste disposal areas themselves contained hazardous wastes. This report also discusses the "white chalky material" identified earlier, but inexplicably does not identify what it is. *Id.* These deficiencies must be remedied.

33-9

33-10

iii. Mid-Hudson Recycling Park Subsurface Investigation (1995)

This investigation appears to be even more narrow in scope than the 1994 waste characterization, limited to "a subset of the entire parcel" that did not encompass the four waste disposal areas discussed above. DEIS, p. 2-8. It involved soil samples from only six locations on the Site and found polychlorinated biphenyls ("PCBs") in one of the six reviewed locations. *Id.*

33-11

No remedial actions appear to have been taken as a result of any of these investigations. In fact, the 1995 Mid-Hudson Recycling Park report indicated that "no action had commenced regarding closure of the waste piles previously studied." *Id.* These deficiencies must be remedied.

In short, the historic reports are of apparently limited scope, may not be representative of other Site conditions, document releases and threats of further releases to the environment, and evidently resulted in no cleanup of the Site. As of 1995, little was known about the environmental condition of the entire Site now proposed for redevelopment, and an additional fourteen (14) years passed before the next environmental reports were prepared which, as discussed below, are even more limited in their scope and therefore even less likely to address the fundamental question of the scope and extent of contamination, and therefore, what potential site development can and should occur, and under what remediation framework.

33-12

c. "Current" Site Investigations

According to §2.2.1.4 of the DEIS, ARCADIS conducted a Phase I Environmental Site Assessment for the Site in 2009. The report also is not provided in the Appendices to the DEIS, an omission that must be rectified for the reasons stated in the preceding paragraph. The summary of this report documents several identified Recognized Environmental Conditions

33-13

33-14

("RECs") on the basis of the observed Site conditions and historic investigations summarized above. Yet, despite the passage of 14 years since the prior, limited investigation, and no apparent information whatsoever on the soil and groundwater conditions throughout the Site, it was decided that only one sample of material would be collected for testing, and that no further characterization of the Site was necessary. The material collected was "the sawdust type material" and contained elevated levels of acetone, ascribed to what "may be a false positive" lab result. DEIS, p. 2-11. The entire Phase I report must be provided to allow review of its adequacy.

33-14 cont.

d. Potential Blasting Increases the Risk of Environmental Harm

In addition, the DEIS indicates that blasting of the underlying bedrock at the Site may be necessary. *See* DEIS, pp. 2-21 through 2-27. Blasting would likely result in new fissures being created in the bedrock, creating new migration pathways for releases to the environment that may threaten groundwater, wetland areas, or the surface waters of the Great Swamp. Without a full understanding of current Site conditions, it is not possible to evaluate the wisdom of blasting or its inherent risk to the environment where, as here, the Site has been a dumping ground for decades.

33-15

e. A Comprehensive Site Assessment is Necessary before the Site is Disturbed

The documented history of industrial dumping throughout the Site, including the classic (and serious) red flags of 55-gallon drums, overturned storage tanks, and a gas holder (*see, e.g.*, DEIS, p. 2-3), as well as the limited nature of prior sampling and testing of environmental media, leads to the only credible conclusion, namely, that the environmental conditions at the Site have not been characterized sufficiently. In order to protect against the exacerbation of known releases and the prevention of new releases to the environment during Site disturbance activities, a comprehensive Site assessment is required and must include soil, groundwater, surface water and sediment testing throughout the Site. The investigation should not be limited to the area of potential development but, in light of the documented dumping and impacts to forested and wetland areas, should extend throughout the Site. Given the nearby environmental resources, including the Great Swamp, the Swamp River, and significant groundwater resources that contribute to the Swamp River, as well as for the protection of construction workers, a full understanding of Site conditions is essential. Although the redevelopment of former industrial lands is a laudable goal, it can not be achieved without assessing the true scope and extent of historic contamination and the risks to the environment of redevelopment. It is axiomatic that SEQRA requires a "hard look" at the Project and its attendant environmental impacts.

33-16

3. The DEIS Fails to Adequately Consider Potential Adverse Effects to the Numerous Protected Species in the Project's Vicinity that Have the Potential to Occur on the Project Site

The DEIS reports the Applicant's review of relevant publications to identify species with the potential to occur on the Project site and the construction laydown area. The results indicate that fifteen (15) protected species (*i.e.*, federal or state listed threatened, de-listed, candidate species or species of special concern) have the potential to occur on the Project site and laydown

area: nine species of reptile and amphibians, four species of birds, and two species of mammals. DEIS, p. 3-17. Of particular concern, the endangered bog turtle,[5] the endangered Indiana bat,[6] the threatened timber rattlesnake,[7] and candidate New England cottontail[8] all have the potential to occur on the Project site. *See* DEIS Appendix 3-C.

a. The Applicant's Study and Evaluation of Protected Species is Inadequate

The Applicant consulted with the FWS and the New York State Natural Heritage Program ("NYSNHP") in June 2009 and with NYSDEC in May 2009 regarding protected species. *See* DEIS Appendix 3-C. At NYSDEC's request, the Applicant performed surveys of the Project site and laydown area to determine the presence of the bog turtle and timber rattlesnake, and the presence of suitable habitat for either species. Neither species was observed during the surveys, and no suitable habitat was located at either site. *See* DEIS, p. 3-27 to 3-29. At the Project site, a survey of both the bog turtle and timber rattlesnake was conducted during a three-day period in June 2009. Cumulatively, observation occurred for only a few hours in each of the five wetland areas identified on the Project site. The laydown area was surveyed on only one day, December 9, 2010. Considering the presence of suitable habitat surrounding the area and the potential for the Project Site and laydown to serve as a travel corridor for the bog turtle and the timber rattlesnake, a more thorough survey should be conducted, over a more extended time frame, to determine whether either species uses the Project Site as a travel corridor. 33-17

In addition, the FWS consultation letter recommended that "the applicant conduct mist netting" to determine the presence of the Indiana bat. DEIS, Appendix 3-C, Part-1, Letter to Mr. Lynn Gresock, ARCADIS from David Stilwell, USFWS pg. 2 (July 20, 2009). Based on the information in the DEIS, the Applicant has failed to conduct any mist netting to determine the presence of the Indiana bat on the Project site. The Project should not move forward until the Applicant has conducted the recommended mist netting. Potential impacts on the endangered Indiana bat cannot be fully evaluated until the presence of the Indiana bat is determined. 33-18

b. Additional Study is Needed to Address Adverse Modification of Protected Species Habitat

As discussed above regarding potential impacts to bog turtle habitat in the Great Swamp, the DEIS inappropriately limits the analysis of impacts to protected species by failing to analyze impacts from habitat modification of the surrounding area. Both New York and federal law protect the habitat of protected species and consider certain modifications to habitat to be a "taking," that is either prohibited outright or, at a minimum, requires mitigation. The bog turtle, 33-19

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5 Federally-listed as threatened (62 Fed. Reg. 59,605 (Nov. 4, 1997); New York State-listed as endangered *See* http://www.dec.ny.gov/animals/7494.html.

6 Federally listed as endangered (32 Fed. Reg. 4001; Mar. 11, 1967); New York State-listed as endangered. *See* http://www.dec.ny.gov/animals/7494.html.

7 New York State-listed as threatened. *See* http://www.dec.ny.gov/animals/7494.html.

8 Federally listed as candidate species (*see* http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A09B) ; New York State-listed as species of concern. *See* http://www.dec.ny.gov/animals/7494.html.

timber rattlesnake, New England cottontail, and Indiana bat have all been observed in the vicinity of the Project. *See* DEIS, sect. 3.2.5. The DEIS must include a more detailed analysis of potential impacts to protected species from habitat modification of the surrounding area.

33-19 cont.

c. Additional Study Is Also Needed to Address Sound Impacts

While the Applicant has conducted an evaluation and analysis of potential impacts to protected species due to construction of the Project, there is no analysis of potential impacts due to plant operations. The Project will be the source of new and continuous droning noise within this rural area that is home to numerous protected species. Yet, the DEIS contains only one conclusory sentence regarding potential operational noise impacts to protected species.

> Operation of the project will result in a minor long-term increase of ambient noise levels in the vicinity, which is not expected to significantly alter wildlife behavior.

33-20

DEIS, p. 3-48 to 3-49. There is no analysis or support given for this conclusion. There is no indication that the Applicant evaluated how wildlife behavior is generally affected by equivalent increases in ambient noise levels. While protected species have not been identified as currently occurring on the Project site (which may be a reflection of inadequate habitat and species surveys), sound impacts are not site-limited and, therefore, may affect protected species living in the Project vicinity. The Applicant should conduct an analysis of potential operational sound impacts to protected species within the Project's vicinity.

An analysis of potential construction-related noise impacts also is missing. Rock splitting, blasting, pile-driving, along with the two to three week period of "steam blows" are just a few of the many anticipated noise events associated with Project construction. Some of the equipment and construction procedures are reported to cause an estimated L_{max} at 50 feet over 100 dB. *See* DEIS, Appendix 6-E. The Applicant must evaluate the potential impacts of these noise events on protected species in the surrounding area.

33-21

4. Given the proximity to the Great Swamp, the DEIS's Alternative Site Analysis is Insufficient to Satisfy the "Hard Look" Required by SEQRA

Under SEQRA, the DEIS must be sufficient to allow NYSDEC to take a "hard look" at the relevant areas of environmental concern. *See Matter of Riverkeeper, Inc. v Planning Bd. of Town of Southeast*, 9 NY3d 219, 232 (2007); *Matter of Jackson v New York State Urban Dev. Corp.*, 67 NY2d 400, 417 (1986); *Red Wing Props., Inc. v Town of Milan*, 71 AD3d 1109, 1111 (2010); and *Matter of Baker v Village of Elmsford*, 70 AD3d 181, 189-190 (2009). The alternative site analysis in the DEIS states that the proposed Project site was selected "based on detailed criteria" and that "[a]lternative Sites were evaluated throughout the southeast region of New York State in addition to several local alternatives in the town of Dover" but they "did not meet the four criteria" outlined in the DEIS. DEIS, p. 7-3, 4. However, the DEIS, provides no information on what or how many alternative Sites were actually evaluated or why each did not meet these criteria. The failure to identify which alternative Sites were evaluated does not allow adequate review of whether sufficient potentially suitable alternatives that may have lower environmental impacts than the proposed Project Site were in fact evaluated. It is impossible to

33-22

33-22 cont.

tell from the DEIS whether other potentially suitable Sites that are not located in or adjacent to the Great Swamp or other wetlands were adequately evaluated (or evaluated at all).

In short, to allow the "hard look" required by SEQRA, the alternative Site analysis must allow NYSDEC to conclude that the Applicant in fact has considered other potentially suitable Sites. This is not possible where, as in the DEIS, the Applicant merely asserts that it has evaluated and rejected a number of other locations based on criteria that appear to have been chosen to favor the proposed Site (which, coincidentally, is already owned by the Applicant). Therefore, the alternative Site analysis in the DEIS fails to meet the SEQRA "hard look" standard.

5. The Project Does Not Comply with Local Zoning

The Applicant proposes to build a fossil-fuel burning plant of substantial scale in a rural, agricultural and residential community. Placement of a large fossil-fuel burning power plant in a rural setting is itself potentially incongruous, but here the Applicant's property is within the Great Swamp watershed and portions include the Great Swamp itself. The Project reportedly is being built to serve energy consumers far removed from the Town of Dover (*see* DEIS, p. 1), leaving the Town to cope with the air pollution, noise, traffic, and aesthetically discordant industrial facilities.

a. The Proposed Project Is out of Compliance with Town of Dover Zoning Code

According to the DEIS, the "majority of the Property" is located within the Town of Dover's Industrial/Manufacturing District ("M"), *see* DEIS, p. 13, although a portion of the Property, west of the Swamp River where no development reportedly will occur, is located within the Rural District ("RU"), which is reserved for agriculture and compatible open space and rural uses. *Id.; see also* Town of Dover Code, § 145-8(A)(1).

The DEIS also indicates that none of the area to be developed is located within the Floodplain Overlay District. *See* DEIS, p. 6-7. However, the available Federal Emergency Management Agency ("FEMA") Flood Insurance Rate Maps (*available at*: http://www.msc.fema.gov/webapp/wcs/stores/servlet/CategoryDisplay?catalogId=10001&storeId=10001&categoryId=12001&langId=-1&userType=G&type=1&future=false) indicate that a portion of the Property, located east of the railroad where construction is proposed, is in fact located within the Floodplain Overlay District. *See* Attachment A to these comments. Thus, compensatory flood areas may be required to prevent adverse effects on nearby property owners. Town of Dover Code § 81-12, and applicable construction standards must be adhered to protect the construction from flood damage. *Id.* at §§ 81-13, 81-14.

33-23

At page 13 of the DEIS Executive Summary, the Applicant indicates that the Project is consistent with local zoning requirements, with the exception of a few reportedly inconsequential matters, such as fence height and nighttime noise limits. Upon closer examination, however, the Project cannot be reasonably reconciled with local laws on other, much more substantial, grounds. These are discussed below.

b. The Project is Inconsistent with Industrial/Manufacturing Zoning and is Legally Ineligible for a Variance

The DEIS states that a large power plant located within the M District is allowed by special permit issued by the Town Board. *See* DEIS, p. 6-7. In fact, "heavy industry" is a prohibited use in an M District, and any fair reading of the phrase, "heavy industry" includes a power plant of the scale proposed by the Project. Although the Town of Dover Zoning Code does not explicitly include power plants in its definition of "heavy industry," the definition includes activity that "emits or is likely to emit objectionable levels of smoke, noise, dust, odor, glare, water pollution, or vibration beyond the property boundaries," and therefore arguably includes the Project. *See* Town of Dover Code § 145-74. In addition, power plants are not addressed in any other sections of the Code (except to be excluded from the definition of "public utility facility"), indicating that there was no intent by the Town to regulate power plants under another use category.[9] Moreover, other zoning codes, including New York City's Zoning Code, which served as a model for many communities, consider power plants to be heavy industry/manufacturing. *See, e.g.*, New York City Zoning Handbook *available at*: http://www.tenant.net/Other_Laws/zoning/ m3.html (definition of "M3: heavy manufacturing" includes power plants).

33-24

Even if the Applicant could show that the Project should not be treated as "heavy industry," there are other reasons why the use is currently prohibited in the M District. In particular, the Town of Dover Zoning Code states: "Any use, whether or not listed in the Use Table, is prohibited if it does not satisfy the standards and criteria in §§ 145-40 and 145-63." Town of Dover Code § 145-10(C). By the Applicant's own explanation (*see* Section 6, below), the noise standards of § 145-40 will be exceeded by the Project. Accordingly, contrary to what is suggested in the DEIS, the proposed Project is arguably a prohibited use in the M District. This prohibited status may be remedied if the Town of Dover Zoning Code is amended, or a use variance is granted by the Town of Dover Zoning Board of Appeals. Variances are prohibited, unless, with respect to "each and every permitted use" within the M District, an applicant can demonstrate "unnecessary hardship," including that:

33-24 cont.

(1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(2) the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the M zoning district;

(3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) the alleged hardship has not been self-created (*e.g.*, the applicant did not "buy" the problem).

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[9] Indeed, the absence of power plants from any of the Town of Dover's zoning districts could reflect an intention to prohibit such facilities altogether.

Town of Dover Code, § 145-59.

We are concerned that a variance may not be granted, e.g., because (a) there are other permitted uses that could be made of this land; (b) there is no clear financial hardship to this Applicant that has not been self-created; and (c) the Project, if authorized, may well alter the essential rural character of this neighborhood and the Town of Dover.

33-24 cont.

c. The Proposed Project Is Incompatible with Zoning Code Height Limits

As another example of incompatibility, the DEIS ignores the Project's three proposed 282.5 foot tall emission control stacks, and whether structures of such height may be reconciled with the purpose and intent of the Town of Dover Zoning Code. There is a 35 foot height limit in the M District. Town of Dover Code, § 145-11(B). Exceptions to the height limitation are set forth at § 145-30D, and include "chimneys," a term that, although not defined, is not readily interpreted to include industrial emission control stacks on the scale proposed for the Project. No other exemptions appear to apply. Town of Dover Code, § 145-30(D). Therefore, the 282.5 foot emission control stacks arguably do not comply with the Town of Dover Zoning Code. Similarly, the Project would have four additional structures ranging in size from 50 feet to 113 feet tall that arguably do not comply with the height limitation. *See* DEIS, p. 1-12.

33-25

6. The DEIS Glosses Over Potentially Significant Noise Impacts

Sound is heavily regulated in modern society. Once the Town of Dover allows a new noise source to be constructed, noise from that source is likely to be extremely difficult to regulate. The DEIS appears to minimize the Project's noise impacts by focusing on a few noise metrics and "averaging" otherwise potentially significant noise problems. *See* DEIS, p. 6-84 through 6-90.

The Project will be the source of new and continuous droning noise within this rural area. *See* DEIS pp. 6-87 through 6-90. The most significant noise impacts revealed by the DEIS are described in an appendix (*see* DEIS Appendix 6-E), but the DEIS also acknowledges that the Town of Dover's nighttime noise standards will be violated by the Project's ongoing operation. *See* DEIS, p. 6-90. In addition to the continuous noise, the Project will be the source of single event loud noises that far exceed the average or continuous noise levels presented by the DEIS. *See* DEIS pp. 6-87 through 6-90. Moreover, construction of the power plant over a three-year period will entail numerous events that far exceed the Town of Dover's standards, such as rock splitting, blasting, pile-driving and a two to three week period of "steam blows," *Id. see also* DEIS Appendix 6-E, p. 9. Some of the equipment and construction procedures are reported to cause an estimated L_{max} at 50 feet over 100 dB. *See* DEIS, Appendix 6-E, Appendices D and E.

Because the Project cannot comply with applicable noise standards, the Applicant asks the Town to amend its laws to increase the noise limit by ten decibels (from 50 to 60 dB) for M zoning districts. *See* DEIS, p. 6-91. Although the DEIS characterizes this as a "slight adjustment" (*see* DEIS, p. 6-10), a 10 dB increase would permit the facility, as well as any other facilities located in an M-zoned area, to emit nighttime noises that are ten times louder than currently allowed. *See, e.g.*, http://en.wikipedia.org/wiki/Decibel. As set forth in the Town of

33-26

Dover Noise Ordinance, "noise shall be prohibited when it is of such character, intensity and duration or of any type or volume that a reasonable person would not tolerate under the circumstances and that is detrimental to the life, health or welfare of any individual or would cause or create a risk of public inconvenience, annoyance or alarm." Town of Dover Code § 107-3(A). Noise of this character, intensity and duration is likely to be the case over both the three-year construction period for the proposed Project, and during its operation thereafter.

33-26 cont.

7. The Project May Not be Reconcilable with New York Air Quality Goals

As noted above, proposed emissions of criteria air pollutants from the Project include the following from its operations: 280 tpy of NOx, 118 tpy of VOC, 570 tpy of CO, 192 tpy of PM, including $PM_{2.5}$ and PM_{10}, 47 tpy of SO_2, 20 tpy of H_2SO_4, 3.6 million tpy CO_2 equivalents (CO_2e) of GHG, and 4.3 x 10^{-4} tpy of Pb. *See* DEIS, p. 4-4. Except for Pb, all of these pollutants exceed federal major source emission thresholds and significance levels. *Id.* Because of New York's non-attainment status for several criteria air contaminants (*see* http://www.epa.gov/oar/oaqps/ greenbk/ancl3.html) and the Project's GHG emissions, which cannot be reconciled with New York's air quality goals when lower sources of emissions are available and can be constructed, the Project's operations merit careful scrutiny.

33-27

Furthermore, under the U.S. Environmental Protection Agency's (EPA) recently finalized Cross-State Air Pollution Rule ("CSAPR"), New York State will be required to achieve substantial reductions in seasonal NOx (a precursor to ozone) emission levels by 2012.[10] This statewide emissions reduction requirement is expected to be difficult to satisfy. Where building a facility such as the proposed Project, which has the potential to emit 280 tpy of NOx, will make it harder for the State to meet its mandatory Federal air pollutant emission reductions when other lower sources of emissions can be options, it is imperative that the facility's potential environmental impacts over and above air pollution be very carefully evaluated.

33-28

8. The Project Has Not Established Conformity with the State Energy Plan, as Required Under SEQRA

SEQRA requires that "([e]) impacts of the proposed action on the use and conservation of energy (for an electric generating facility, the statement must include a demonstration that the facility will satisfy electric generating capacity needs or other electric systems needs in a manner reasonably consistent with the most recent state energy plan)." *See, e.g.,* 6 NYCRR § 617.9(b)(5)(iii)([g])). The DEIS has not established that this standard is met, a deficiency that must be remedied.

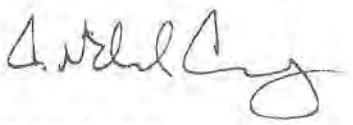
33-29

[10] The Final CSAPR has not yet been published in the Federal Register. The prepublication version is *available at*: http://www.epa.gov/crossstaterule/pdfs/TR_070611_WEB.pdf. Under the CSAPR, New York's seasonal NOx emissions budget for 2012 and beyond is 8,331 tons (*See* Table VI.F-3, Final Rule, p. 268), which is substantially below the State's 2010 emissions that serve as a baseline for reductions.

Conclusion

As detailed above, the Applicant proposes to build a fossil-fuel burning power plant in a rural community on property within and adjacent to protected wetlands, and with significant on-site concerns, without performing the meaningful quality and quantity of environmental analyses that Entergy Indian Point has performed, and will continue to perform, with respect to its own continued operations. There is no clear basis in the DEIS for concluding that the Project will advance New York's electric system, air quality and climate change goals, or be constructed and operated in reasonable conformity with New York environmental requirements. There is likewise no basis in the DEIS for concluding that the Project's disruption to community character, whether based on height, sound or the impacts to the Great Swamp watershed, are offset by the prospect of substantial socio-economic or employment benefits to the region. Accordingly, Entergy Indian Point respectfully submits these comments to identify matters that require redress before a final environmental impact statement that conforms to New York law may be issued, and the Project may, if appropriate, proceed.

Respectfully submitted,



T. Michael Twomey
Vice President, External Affairs – Wholesale

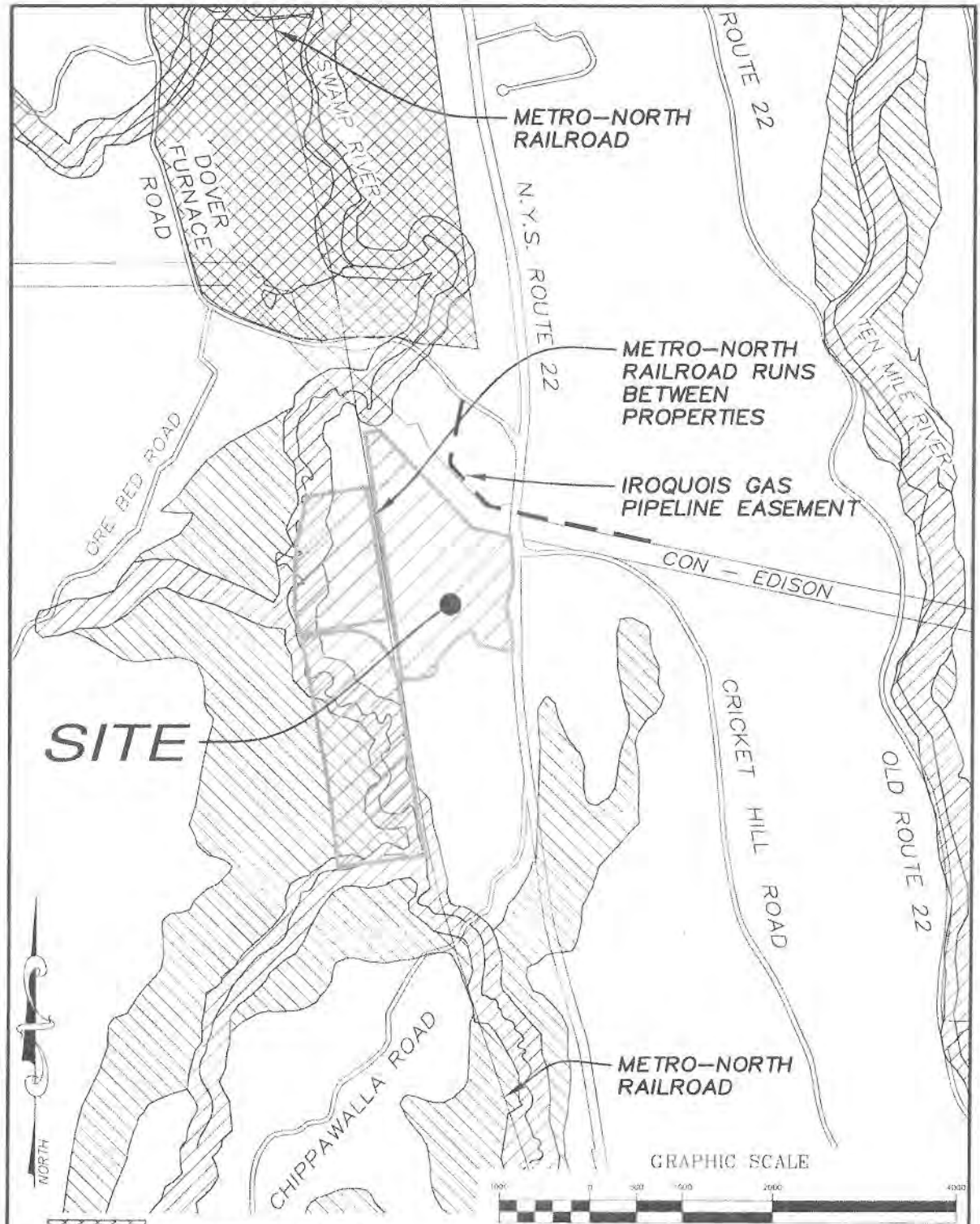
Attachment

Attachment A:

DEIS Map of Floodplain Overlay District

and

FEMA Flood Insurance Rate Maps of the Proposed Project Area



NOTE:

1. OVERLAY DISTRICT INFORMATION TAKEN FROM MAP SHOWING ZONING DISTRICTS, FLOODPLAIN OVERLAY DISTRICT, STREAM CORRIDOR OVERLAY DISTRICT AND SOIL MINING OVERLAY DISTRICT PREPARED BY TOWN OF DOVER DATED APRIL 7, 2003.
2. CURRENT LAND RECORD OWNER: HOWLANDS LAKE PARTNERS LLC P.O. BOX 285 MOUNT KISCO, NY 10549
3. TAX MAP GRID NUMBER(S): 7060-00-493989; 7061-00-445490; 7061-00-580190; 7061-00-585063

SITE OVERLAY DISTRICT MAP

PREPARED FOR

CRICKET VALLEY ENERGY

TOWN OF DOVER, DUTCHESS COUNTY, NEW YORK

SCALE: 1"=1000'	APPROVED BY: JZ	DRAWN BY: SW
DATE: 10-07-09	PROJECT NO. 2009.017	DESIGN BY: JW

ZARECKI & ASSOCIATES, L.L.C.
Consulting Engineers - Land Surveyors - Architects
Ridgefield, CT (x87)

FEMA Flood Insurance Rate Maps

34

Cricket Valley Energy DEIS

Comments on behalf of *Friends of the Great Swamp (FrOGS). 8-5-11.*

FrOGS has reviewed major sections of the document and participated in some of the earlier public meetings and Citizen Advisory Panel sessions. The openness of the public disclosure/discussion process adopted by Cricket Valley and their responses to our earlier critique are recognized and appreciated. We trust that concerns and suggestions in this current round of public discourse will receive similar attention.

The proposed project is on the bank of the Swamp River at the edge of the Great Swamp, one of the most significant natural resources of the region. The Swamp River is relatively slow moving, and like the Great Swamp, of which it is a part, vulnerable to hydrological changes to inputs and outputs, as well as pollutant inputs.

Friends of the Great Swamp is especially concerned with potential impacts to the hydrology, water quality, air quality, ecological habitats, wildlife, and rare species. Our comments are restricted to these aspects. We also reiterate our concern that this project be examined in the light of the other proposed and potential projects in the Towns of Dover and Pawling especially. **Cumulative impacts must be part of a SEQRA process.**

34-1

1. Hydrology.

The earlier version of the plan involved withdrawing 600,000 to 1 million gallons of ground water for cooling; this was of great concern to us because such large volumes would probably have a significant impact on groundwater levels and wetland health, especially during drought periods. Such a possibility would become an even graver issue if Dover Knolls, a major development proposed for the former HVPC site, only one mile upstream. Given this context, we applaud CVE for changing their cooling system from a water-based system to an air-cooled system. Collection of water from rooftops of CVE buildings is also a positive step towards reducing the hydrologic impact of the plant.

34-2

These changes have reduced projected ground water withdrawals to a range of 17,000 to 88,000 gallons/day, according to the DEIS (pg 5-17).
However, we do not have expertise to evaluate the models and calculations that resulted in these numbers; we assume that DEC or Town of Dover has such experts on staff or will contract independent hydrologists to review the proposal.

Given the inherent uncertainty, we request that CVE agree to fund flow-gauge monitoring of the Swamp River, above and below the site, as well as piezometric monitoring of groundwater levels in three representative off-site wetlands. If stream flows are significantly reduced by the plant, or if groundwater levels in the wetlands are drawn down significantly, plant operations must then be adjusted to reduce the impact to acceptable levels.

34-2 cont.

The DEIS also addresses the possibility of CVE using treated effluent from Dover Knolls to reduce or eliminate water withdrawal from the aquifer, if DK is approved. The cost of establishing this system is the responsibility of DK and the reduction in water withdrawn by CVE could partially mitigate the large amount of water DK projects withdrawing from the aquifer.

34-3

2. Water Quality Impacts.

Water quality could be affected by waste water discharges into the Swamp River, or indirectly from pollutants released into the air that settle out onto the land or water.
CVE responded to the first of these by adopting Zero Liquid Discharge technology in the current plan. If this system works as described, pollutant discharges would not appear to be an issue.

34-4

Indirect sources of water pollution may be more difficult to address and are directly related to the Air Quality issues.

34-5

3. Air Quality.

High temperature combustion of fossil fuels always results in production of air pollutants due to “impurities” in the fossil fuel (e.g. mercury), the oxidation of carbon to carbon

dioxide (a major greenhouse gas), and the reaction of oxygen with atmospheric nitrogen to form a variety of nitrogen oxides. Production of these pollutants is a 'given' outcome of the high temperature process, but the quantity and form of the pollutants produced can vary depending on the fuel source, temperature of the operation, and other aspects. The proportion of the pollutants released into the atmosphere may also be subject to some controls, such as absorbents and scrubbers. Pollutants released into the atmosphere can further react , even with just the presence of sunlight, to produce other pollutants, or they can adsorb to dust particles and settle onto land, or they can dissolve in water droplets that precipitate onto the land where they impact soil, biota, and can get carried into the waterways as water pollution. One of the major groups of pollutants is the nitrogen oxides. These are converted into nitric acid when dissolved in water droplets and further acidify precipitation which then reduces buffering capacity of soils and changes other soil processes. Nitrogen oxides also reach the soil surface in other ways and produces nitrogen enrichment which has been shown to change soil chemistry and have significant effects on soil ecosystems. The calcareous systems of the Great Swamp and the Swamp River are especially vulnerable to acidification and nitrogen enrichment; the greatest impact is likely to be seen in the calcareous fens, home to many of our rare species.

34-6

Because the proposed CVE plant is in the Harlem Valley depression, it is subject to reduced air mixing and increased fog formation, both of which increase the impacts of air pollution. This specific location also has a special challenge since the Dover Junior and Senior High Schools are on the eastern slope of this valley.

34-7

Air pollution seems to be a most critical remaining issue. Therefore, we recommend that all available technology be utilized to minimize the amount of air pollution released and that air quality specialists be consulted to ascertain that a safe level is achieved. Furthermore, we urge CVE to establish and maintain an air quality monitoring system which includes a station at the Dover High School, to provide continuing information on the ambient levels of major air pollutants and that plant operations be adjusted whenever safe limits are exceeded.

34-8

.

4. Ecological habitats, wildlife, and rare species.

Given the nature of the proposed site, a past industrial operation that has left the land with hazardous waste, the planned remediation and partial restoration of the unbuilt land, are expected to improve this habitat, while no known rare species are located on the development site. Potential negative effects to the ecology, wildlife and rare species would result from indirect impacts, specifically on changes in the hydrology and pollution levels as addressed above. Since the system includes at least one federally listed species, the significance of such indirect effects cannot be understated.

34-9

Thank you for the extended opportunity to provide comments on this proposal.

James Utter, PhD
Chairman,
Friends of the Great Swamp

35

John C. Fila
85 Weils Road
Wingdale, NY 12594
845/832-7449 johnfila@optonline.net

Stephen M. Tomasik, Project Manager
NYS Dept. of Environmental Conservation
Division of Environmental Permits
625 Broadway – 4th Fl.
Albany, NY 12233-1750

08/05/11
01:29:40 PM

Re; Comments on Cricket Valley DEIS

I am a longtime resident of the town of Dover and have many concerns regarding the siting of this facility in Dover. Chief among them are:

Air pollution

The almost certainty of altering the micro-climate here in the valley. As you know, the proposed site in Dover is in a valley portion of the Taconic mountains. A valley such as this, depending on uncontrollable atmospheric conditions and geological features can have a micro-climate imposed on it. This condition may be negatively impacted by a temperature inversion or by blocking out sunlight, both of which are possible effects of this facility. The residents of Dover exist in this micro-climate, not at the Poughkeepsie airport- which was used in the applicants study.

35-1

View shed Analysis

The conclusions as presented in the DEIS are based on an incomplete, therefore inaccurate, analysis, using a limited number of locations. A very similar, if not identical facility is located in the town of Athens NY. The views in that area are dominated by the stacks and cooling towers of that plant.

35-2

Aquifer Impact

The depletion or adverse impact on the primary aquifer in our area-and beyond- may be of critical importance-and a pivotal factor. The aforementioned Athens plant uses water from the Hudson river. Presumably there was a need for a significant quantity of cooling water. A need which simply could not be met using the local groundwater supply.

35-3

In addition, the cumulative impact must be considered, including aquifer use by the nearby Dover Knolls development, at full build-out, as well as provisions projecting long term growth in the area. All, in a worst case scenario i.e. drought conditions.

35-4

These and the many other issues and objections that have been identified and presented to you in other DEIS public comments, require further study. As a former member of the town of Dover's Planning Board I know it to be a common practice for a lead agency, when faced with anything as far reaching and complex as this, to use outside expertise to supplement the resources available from within and not to rely solely on information provided by the applicants document(s).

35-5

As the NYS Department with the primary mission "To conserve, improve and protect New York's natural resources and environment and to prevent, abate and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well-being.", and, as lead agent, DEC bears the full responsibility for performing a complete, thorough and accurate analysis of all relevant data in order to support a credible determination of the impact on the environment. Anything less falls short of DEC's mission and is a disservice to the citizens of our state, and most importantly, to those most affected, the residents of the town of Dover.

In these difficult financial times in state government, with the requisite, across the board, staff cuts affecting virtually agency and department in state, including DEC, it's possible for unforeseen issues with unintended consequences to "slip through" or for data to be misinterpreted. Given the importance of this project and the need to ensure the complete and proper protection of our environment along with the long term heath and safety of Dover's residents, the need to supplement your department's team with whatever outside expertise is needed, is a given.

I believe you have the authority to direct the applicant to fund this independent analysis through its escrow account so there should be no cost to the taxpayer.

35-5 cont.

Cordially,

John C. Fila

36

OBLONG
LAND CONSERVANCY

Conserving the land, protecting our future.

August 5, 2011

Stephen M. Tomasik, Project Manager
NYS Dept. of Environmental Conservation
Division of Environmental Permits
625 Broadway, 4th floor
Albany, NY 12233-1750

RE: Cricket Valley Energy
Comments on DEIS

Dear Mr. Tomasik,

Thank you for this opportunity to submit additional comments on the DEIS, and for the extension of time granted to submit comments, and for the extra public hearing that was scheduled for a Saturday, in response to public requests.

At this time, we have a few additional comments to make.

1. The Housatonic Valley Association (HVA), has requested that monitoring stations be established to detect declining water levels, so that appropriate action can be taken when levels fall below established parameters. The Oblong Land Conservancy supports that request. 36-1

2. CVE has made a commitment to permanently preserve the land in The Great Swamp, located on the western side of the MTA Tracks. Oblong would be pleased to accept these lands, subject to our Board's approval. However, as discussed with representatives of CVE previously at various meetings, we would require accessibility to these lands, and the arrangement would need to be contingent on a professionally drafted management plan, accompanied by an endowment to fund the necessary monitoring and enforcement of any liability issues. 36-2

3. The height of the proposed stacks remains an issue. As you know, The Great Swamp has been recognized as a flyway for migrating birds. Our populations of neo-tropical migrating birds has been estimated to be in decline at the rate of about 7% each year. That is unsustainable. Many of our once common species are headed for extinction, and within a few short years. The Great Swamp is also officially recognized as an "Important Bird Area in New York State (IBA). 36-3

That said, I attach a copy of "Tower Site Recommendations and Guidelines", provided by the Fish and Wildlife Coordination Act. The stack proposed by CVE exceeds the 199 foot above ground level rule, and would have the same impact as communications transmission towers. 36-3 cont.

We request that CVE do what it can to avoid the most offensive high impact lighting, and when at all possible, install low impact lighting that reflects the recommendations made in this communication on recommendations and guidelines. 36-4

Thank you for the opportunity to submit these comments.

Sincerely

Sibyll Gilbert, Vice Chair
Oblong Land Conservancy

Enclosure one

ENCLOSURE

Tower Site Recommendations and Guidance

The following comments are provided in accordance with the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661-667e), the Migratory Bird Treaty Act (16 U.S.C. 703, *et seq.*) and section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531-1543).

We are concerned about projects of this nature and their cumulative impacts to migratory birds and federally endangered and threatened avian species. The construction of communication towers such as you are proposing is increasing. A concern exists about the possible effects on neotropical migrant bird (NTMB) species and other bird species resulting from collisions with communication towers. Towers are potential hazards when birds fly at low altitudes. Daily avian foraging routes are important elements to consider when siting towers. Wire strikes are frequent when the structure separates feeding, nesting, and roosting areas. Collisions also occur frequently at night and during inclement weather, which reduces visibility and/or causes birds to fly lower.

Although actual levels of impacts on bird populations by smaller cellular communication towers are still uncertain, in the interest of the conservation of NTMBs and other birds, we recommend the following measures to avoid and minimize these impacts:

1. Any company/applicant/license proposing to construct a new communications tower should co-locate the communications equipment on an existing communication tower or other structure (e.g., billboard, water tower, or building mount). Depending on tower load factors, from 6 to 10 providers may co-locate on an existing tower.

2. If co-location is not feasible and a new tower or towers are to be constructed, communications service providers should construct towers no more than 199 feet above ground level, using construction techniques which do not require guy wires (e.g., use a lattice structure, monopole, etc.). Such towers should be unlighted if Federal Aviation Administration regulations permit.

3. If constructing multiple towers, providers should consider the cumulative impacts of all of the towers to migratory birds and threatened and endangered species as well as the impacts of each individual tower.

4. If at all possible, new towers should be sited within existing "antenna farms" (clusters of towers). Towers should not be sited in or near wetlands, other known bird concentration areas (e.g. State or Federal refuges, staging areas, rookeries), in known migratory or daily movement flyways, or in habitat of threatened or endangered species. Towers should not be sited in areas with a high incidence of fog, mist, and low ceilings.

5. If taller (>199 feet AGE) towers requiring lights for aviation safety must be constructed, the minimum amount of pilot warning and obstruction avoidance lighting required by the FAA should be used. Unless otherwise required by the FAA, only white (preferable) or red strobe lights should be used at night, and these should be the minimum number, minimum intensity, and

minimum number of flashes per minute (longest duration between flashes) allowable by the FAA. The use of solid red or pulsating red warning lights at night should be avoided. Current research indicates that solid or pulsating (beacon) red lights attract night-migrating birds at a much higher rate than white strobe lights. Red strobe lights have not yet been studied.

6. Tower designs using guy wires for support which are proposed to be located in known raptor or waterbird concentration areas or daily movement routes, or in major diurnal migratory bird movement routes or stopover sites, should have daytime visual markers on the wires to prevent collisions by these diurnally moving species. (For guidance on markers, see *Avian Power Line Interaction Committee (APLIC): 1994. Mitigating Bird Collisions with Power Lines: The State of the Art in 1994. Edison Electric Institute/Raptor Research Foundation, Washington, D.C., 128 PP.* Copies can be obtained via the Internet at http://www.eei.org/resources/pubcat/enviro/. or by calling 1-800/334-5453).

7. Towers and appendant facilities should be sited, designed and constructed so as to avoid or minimize habitat loss within and adjacent to the tower "footprint." However, a larger tower footprint is preferable to the use of guy wires in construction. Road access and fencing should be minimized to reduce or prevent habitat fragmentation and disturbance, and to reduce above ground obstacles to birds in flight.

8. If significant numbers of breeding, feeding, or roosting birds are known to habitually use the proposed tower construction area, the tower should be relocated to a site with minimal or no impact to migratory birds. If this is not an option, seasonal restrictions on construction may be advisable in order to avoid disturbance during periods of high bird activity.

9. In order to reduce the number of towers needed in the future, providers should design new towers structurally and electrically to accommodate the applicant/licensee's antennas and comparable antennas for at least two additional users (minimum of three users for each tower structure), unless this design would require the addition of lights or guy wires to an otherwise unlighted and/or unguyed tower.

10. Security lighting for on-ground facilities and equipment should be down-shielded to keep light within the boundaries of the site.

11. If a tower is constructed or proposed for construction, Service personnel or researchers from the Communication Tower Working Group should be allowed access to the site to evaluate bird use, conduct dead-bird searches, to place net catchments below the towers but above the ground, and to place radar, Global Positioning System, infrared, thermal imagery, and acoustical monitoring equipment as necessary to assess and verify bird movements and to gain information on the impacts of various tower sizes, configurations, and lighting systems.

12. Towers no longer in use or determined to be obsolete should be removed within 12 months of cessation of use.

In order to obtain information on the usefulness of these guidelines in preventing bird

strikes, and to identify any recurring problems with their implementation which may necessitate modifications, please advise us of the final location and specifications of the proposed tower, and which of the measures recommended for the protection of migratory birds were implemented. If any of the recommended measures can not be implemented, please explain why they were not feasible. Completion of the attached Tower Site Evaluation Form will allow us to determine the extent to which these guidelines are being implemented. Future request for information from the Service regarding endangered and threatened species and migratory birds should include a completed Tower Site Evaluation Form.

37

Town of Dover, New York
Ryan Courtien, Supervisor

126 East Duncan Hill Rd ● Dover Plains, NY 12522

Phone: (845)832-6111 x111
Fax: (845)832-3188
E-Mail: supervisor@townofdoverny.us
Website: http://townofdovery.us

To: Stephen Tomasik, Project Manager, NYS DEC
From: Ryan Courtien, Town Supervisor, Town of Dover
Date: August 5, 2011
RE: Cricket Valley Energy Draft Environmental Impact Statement Comments

The following comments and questions are in regard to the Cricket Valley Energy Draft Environmental Impact Statement and are divided into sections with references to page numbers, where applicable. The following 85 comments and questions are offered trying to avoid repetition with those of others except for those which are of such importance it necessitates their repetition. Some listed in the Executive Summary may be explained in later sections but a better understanding of these topics in the Executive Summary would greatly benefit the public because of the few people who actually read these documents, most of them may only read the Executive Summary. 37-1

Executive Summary

1. ES-1: "environmental benefits on a local, regional and state-wide basis." The term "environmental benefits" needs to be further explained especially local. 37-2
2. ES-1: "clean burning natural gas" vs. "natural gas" Is there non-clean burning natural gas? What is the definition of clean burning? 37-3
3. ES-1: "through the displacement of less efficient and higher polluting generating facilities." Is this provable? 37-4
4. ES-4: "ensuring that no process wastewater will be discharged." Is it possible for wastewater to be discharged? 37-5
5. ES-8: While a Waste Characterization Report "did not indicate that hazardous waste thresholds were exceeded."Implication is that there is hazardous waste; was any hazardous waste found? If so, what? 37-6
6. ES-8: How will the tire crumb material, fire bricks and PCBs be removed? 37-7
7. ES-10: Further explain how a bioretention pond is a habitat. 37-8
8. ES-10: Take out "where project design allows." If areas are not revegetated, then they are not temporarily disturbed. Also, a suitable local plant species can be found for any area on the site. 37-9
9. ES-12: "Higher emitting" or "Higher GHG emitting"? The term "higher emitting" needs to be better explained. 37-10
10. ES-14: "generate tax revenues for the town." Add "county and school district." to the end of the sentence. 37-11
11. ES-14: While it is stated and mapped in Section 6 where the project will be visible, there should be more brought forward to the Executive Summary. 37-12
12. ES-14: What are the "areas of visual importance?" Is there a standard list or criteria used in determining this? 37-13
13. ES-15: Change to "coordination with town, school and state highway officials." 37-14
14. ES-15: Will the project require any improvement to the ConEd Electric Lines or Iroquois Gas Pipeline? If so, what improvements? 37-15
15. ES-17: In the Unanticipated Discoveries Plan, who would be notified in case of an event? 37-16
16. ES-17: CVE requested a similar review from OPRHP or was the request made in the opposite direction? 37-17

17. ES-18: "The project will not impact existing local fire, police or emergency protection services." How true is that statement? If one construction worker is injured, then there is an impact however small. 37-18
18. ES-19: Is any consideration being given to an expandable sewage treatment plant that possible future projects in the vicinity could tie into? 37-19
19. ES-22: What is the plan for disposal of demolition debris? 37-20
20. ES-22: What is the plan for disposal of crystal solids? 37-21
21. What are the type and locations of emissions offsets? 37-22
22. Will there be any elevation in noise levels within a train passing the project site during construction / operation? 37-23
23. There needs to be an air monitor in the Town, the best place for this would be the Dover Middle / High School due to its central location, proximity to the proposed plant and possible educational benefits. 37-24
24. A publicized Balloon Test for Stack Height needs to take place so everyone can get a sense of what the proposed 282.5 foot high stacks will look like. This test should be coordinated with the Town of Dover Town Government. 37-25
25. A publicized Noise Test to see actual effects of expected for noise levels. This test should be coordinated with the Town of Dover Town Government 37-26

Section 1 – Project Description

1. Figure 1-2: RC does not mean recreation; it means resource conservation 37-27
2. Figure 1-4: No longer TT Materials; is now RASCO. 37-28
3. Figure 1-4: What is the purpose of lettering the buildings on the map if the letters don't relate to anything? Why are some lettered and some explanatory? Move to Section 2 or move Section 2 into Section 1. 37-29
4. Figure 1-5: What do the different colored arrows represent? Is gas being fed into the system through ducts after the turbine? What do the circles represent? Do the hot steam lines leave in parallel and return cold in series? Is electric generated from the air compressor? This, and all aspects of the DEIS, is supposed to be understandable to the general public. 37-30
5. Figure 1-6: Well B-3 should have some protection from tampering due its location outside of the fenced area and its proximity to RT. 22. Consideration also toward wells B-5 and B-6. 37-31
6. Figure 1-8: There cannot be an elevation drawing with the elevation of the stacks being cut short. This figure needs to be redone. 37-32
7. The Leach Field and the Fin Fan Coolers are have reversed locations from Figure 1-6 to Figure 1-9. Additionally the Storm Water Pretreatment and Management Basin shape is altered. 37-33
8. Figure 1-10: The Laydown Site map should include the proposed design of the site; not merely the part of the parcel being considered for use. 37-34
9. Figure 1-11: How does the Rooftop Rain Capture system handle snow; especially a lot of snow like we saw in Winter 2011? 37-35
10. Figure 1-13: This timeline was created in July 2010. Is the projected timeline anticipated start date still January 2012? 37-36
11. Are potential older, less efficient, and higher GHG emitting electric generators identified? 37-37
12. 1-2: The DEIS states" Due to the project's superior efficiency it will be dispatched ahead of high emitting generators, causing those units to operate less frequently, thereby yielding a net air quality benefit across the region." The primary consideration in dispatching seems to be emissions over cost; is this true? 37-38
13. 1-2: The regional emissions reduction table is 4-33 not 4-32. 37-39
14. 1-2: Is a map of the NYISO Load Zones available showing plant locations, types and output? 37-40
15. 1-5: Move Figure 1-4 to Section 2 or move the existing site conditions in Section 2 into Section 1. 37-41

16. 1-7: Approximately 282.5 feet tall seems to be rather exact. 37-42
17. 1-8: How long can the fire pump run on 650-gallon fuel tank before requiring refueling? 37-43
18. 1-9: Where does the 1000MW rating come from when the Net Output varies based largely on temperature as seen in Table 1-1? 37-44
19. 1-10: What are the more efficient technologies for producing electricity than combined cycle? 37-45
20. 1-10: Will there need to be a second driveway created for access to the properties south of the project? 37-46
21. 1-11: CVE should communicate with NYPA, or some other organization, to locate solar panels on the project structures. 37-47
22. 1-11: Is a design alternative considered / possible that does not exceed the 35 foot height limitation of buildings in the Town of Dover Town Code? 37-48
23. 1-11: What affect, if any, will the heat from the plume have on local (project property and surrounding properties) temperatures? 37-49
24. 1-17: How will ammonia be delivered to the site? How often? 37-50
25. 1-18: The risks of using hydrogen gas for cooling need to be explained. 37-51
26. 1-18: More detail is needed for purging of hydrogen gas. 37-52
27. 1-19: Will the lighting cause a reflection on the facility that will be seen off-site? 37-53
28. 1-20: More details regarding "A variance or an exemption for certain types of non-friable asbestos may be requested from the Town of Dover" need to be given. 37-54
29. 1-25: There will be 2800/5 = 560 5-gallon containers of medium WT Oil on site at one time or over the course of construction? 37-55
30. 1-25: Is it supposed to be 50 – 1000 gallons of paint or 500 – 1000 gallons of paint? 37-56
31. 1-30: What is the composition of the step-up transformers? 37-57
32. 1-31: Does the natural gas go directly from the Iroquois pipeline into the lateral pipeline then into the equipment or is there a reservoir between the lateral and the equipment to take care of any increases / decreases in pressure? 37-58
33. 1-31: With the creation of this power plant, Iroquois will likely need to adjust their pipeline, with a compressor station, cooling system or loop up-line, to take care of the increased demand for natural gas. Has there been a discussion with Iroquois regarding this likely event and, if so, where would the alterations to the pipeline take place to accommodate the project? 37-59
34. 1-32: A comprehensive list of natural gas power plant construction and operation accidents involving natural gas needs to be provided describing the nature of the accident, what when wrong and why it won't happen at CVE. 37-60
35. 1-32: A detailed plan taking into account all possible ems and fire incidents, with appropriate responses, needs to be in place for both construction and operation. 37-61

Section 2 – Earth Resources

1. 2-1: Erosion and Sediment Control will be handled by the Planning Board, not the Town Board. 37-62
2. 2-2: It is not possible for there to be a "majority of the main building site". 37-63
3. 2-4: It should be noted that Building E is the building designated for use by RASCO for temporary storage of post-process materials. 37-64
4. 2-8: How is identifying the color of materials (grey, brown, white, green/gray) the same as identifying the material type? 37-65
5. 2-9: The site has crumb rubber scattered around. How will this material be removed from the site? 37-66
6. 2-10: What is the plan for the removal of waste piles and does this plan for removal depend upon the composition of the waste piles? 37-67

7. 2-10: RASCO should not be listed as an inactive solid waste facility. 37-68
8. 2-20: Lead and asbestos needs to be removed from the building before demolition. The demolition of the building, with these hazardous materials still in place, using machinery will pollute the air and / or ground. 37-69
9. 2-20: Removal of hazardous materials should be made clearer. All hazardous material needs to be removed from the site. It seems that what is being asked is an exemption from removal of hazardous material from the building before removing it from the site. 37-70
10. 2-22: Is there any material that is anticipated to be left behind or is all material being removed? 37-71
11. 2-22: Areas of topsoil contain scattered crumb rubber which would need to be sorted out if the top soil is to be reused or the topsoil would need to be removed if the rubber cannot be sorted or if the soil has been contaminated by the rubber. 37-72
12. 2-24: The comprehensive public outreach plan should include signs on Route 22. 37-73
13. 2-26: Who will receive the results of the seismograph readings after blasting has occurred? 37-74
14. 2-26: The radius for notification should increase to a half mile because of the noise disturbance that will come from blasting. 37-75
15. 2-29: A detailed map of the laydown site and access to Route 22 needs to be provided. 37-76
16. 2-33: The permanent sediment and stormwater control measures should be included on all slopes 20% or greater. 37-77

Section 3 – Natural Resources

1. 3-3: Is there any belief that a take or taking of an endangered or threatened species will occur? 37-78
2. 3-3: Property sits in relative isolation? Relative to what? 37-79

Section 4 – Air Resources

1. Appendix 4A: Table 2: Why is ambient temperature in Fahrenheit and Stack Temperature in Kelvin? One temperature scale should be used. 37-80
2. Appendix 4A: Table 2: Units such as “m/s” and “g/s” (presumably meters per second and grams per second respectively) should be noted as to their meaning. 37-81
3. Appendix 4A: Table 2: In Table 1, emissions are in lb/hr and in Table 2 they are g/s. This lack of consistency in units only serves to confuse the public. 37-82
4. Figure 4-5: Site Elevations is deceptive as it does not show the true height of the stacks. 37-83
5. Figure 4-6: Comparisons of CO_2 is too basic comparing this project to all power plants as an average. This bar graph should be broken out into all other power sources (other natural gas, coal, oil, nuclear, hydro, solar, wind, etc.) knowing that some bars would be zero and Cricket Valley would fall somewhere in between. 37-84
6. The Town of Dover Town Board has provided comments through our regular consultants on Section 4 and will be hiring an independent consultant to give further comment in the coming months. 37-85

Section 6 – Community Resources

1. Appendix 6C – Lighting Study should include nighttime renderings of the plant from several locations around town including the Dover Middle / High School, looking south from Dover Furnace, looking north from Chippawalla Road, looking west from Cricket Hill and looking southeast from Ridge Road. 37-86

Sincerely,
Ryan Courtien, Town Supervisor, Town of Dover

38

Stephen and Cate Wilson
50 North Chippewalla Road
Wingdale, NY 12594
Phone: (845) 832-6494
Fax: (845) 832-3334

Fax

Date: August 5, 2011

To: Mr. Stephen M. Tomasik, Project Manager, DEC

Fax: 518-402-9168

Pages Including Cover: 4

Comments:

For consideration with Cricket Valley Energy DEIS and proposed plant development in Dover, NY.

Stephen and Cate Wilson
50 North Chippewalla Road
Wingdale, NY 12594

August 5, 2011

Stephen M. Tomasik, Project Manager
NYS Dept. of Environmental Conservation
Division of Environmental Permits
625 Broadway - 4th Floor
Albany, NY 12233-1750
Fax: 518.402.9168
Email: depprmt@gw.dec.state.ny.us

SENT VIA FAX AND EMAIL

Dear Mr. Tomasik,

Please include the following comments in the DEC's consideration of the DEIS for the Cricket Valley Energy project proposed for development in Dover NY.

- We are owners of approximately 9 acres just south and well within one mile of the proposed site, where we have made our primary residence for the last 17 years.

- The environment here in our area is one that we consider to be clean and quiet—a place to live, work and retire, where we can pursue activities such as gardening, camping, swimming, and outdoor living in general. The prospect and ultimate advent of a large scale (and potentially unnecessary) power plant in close proximity is not conducive to any of these pursuits for many reasons. 38-1

- We object strenuously to the limited amount of time allowed for residents to respond to the DEIS. The full document encompasses four very large books of detailed technical information, which would require months for even a well versed industry expert to digest. Those of us who live here are not experts—we are residents with full time jobs, commuting, and raising families—and we have limited time for review in any given period. Yet we were allowed barely two months from the publication of the completed DEIS on May 25, 2011 for a full review of all the important issues it contains. These are issues that could potentially effect the remainder of our lives here, our health, well-being, our children, our property values and our happy retirement—all of which are deserving of real time for a proper review of the DEIS. 38-2

  The limited time allowed smacks of "steamrolling" or "railroading"—in other words, because CVE and its backers are large corporate entities, they are being allowed by the DEC to call the shots on their terms and push this project through, while we who live here should simply bow down and give in, or get out of the way. This is not democratic process as we understand it.

- Although CVE conducted a variety of tests for impact on water, air, noise, pollution, traffic, etc., none of these were of sufficient duration to be considered reliable in evaluating the full impact of the proposed plant in actual operation. Most were only one to two weeks in 38-3

duration and could not possibly take into account all of the variables that could potentially alter the results—for example, conditions at different seasons of the year, additional building projects in the area, increasing population locally and increased water usage resulting from any or all of these. Some also used basis points that should be considered irrelevant for our specific area.

38-3 cont.

CVE claims their plant would be the cleanest in the state—by US regulation they must meet the lowest demonstrated rates of emissions. This isn't saying much given that the lowest rates are likely from inefficient older plants and that many of the government studies used as basis points have not been updated since the early part of this century. The standard should be set against current and local area measurements within Dover specifically.

38-4

The DEIS also discusses "net" change over a relatively wide measurement area; however there is no specific discussion of how these standards could vary in areas like ours, closest to the proposed plant.

38-5

They cannot accurately predict the cumulative effects of the plant in operation for any type of impact. Modeling and statistics have been known to be erroneous before—they are after all human creations and only as good as their developers. Mark Twain once quipped "there are lies, damn lies and then there are statistics". Honest statisticians and modelers all know he was right.

In fact, Arcadis—the CVE environmental consultant who wrote the DEIS—was mentioned in a recent documentary titled "Mann vs. Ford" which aired on HBO. Arcadis was apparently wrong in that Ringwood, NJ case, since their client, Ford Motor Company settled with a large number of cancer victims.

38-6

- Noise, traffic and air pollution are of considerably greater concern during the lengthy construction period required to build the plant if it is approved. The DEIS again discusses sound, traffic and air impacts upon "the more distant residential properties", but does not specifically address impacts on locations in immediate proximity. Not only our home, but others and the Dover Middle School and High School locations will be impacted by this for three or more years if the project does not complete on schedule.

38-7

- The DEIS does not address issues related to prolonged exposure to the admittedly excessive noise and air pollution that will results from the construction process. Three years is a long time to suffer 50-70db sound levels, even if they are intermittent.

38-8

- We join with others in the community in requesting that the CVE plan not be approved until such time as and independent and unbiased expert of the Dover Town's choosing can complete an assessment of the potential impacts.

38-9

- The DEIS makes no accommodation for unexpected adverse impacts.
    - What if their models and projections are wrong? We know they could be.
    - What if some human error—and it only takes <u>one single error</u>—results in the loss of water supply, damage to property, damage to anyone's health? It would not be the first time that this has happened.

38-10

The DEC should require CVE to set aside funds sufficient for any reparations as a contingency against any and all possible failures and damaging effects that they have not foreseen.

Some level of contingency should be required, since the local community will bear the brunt of any difficulties and any adverse impacts that result from this project, despite the fact that we will gain very little from the plant in operation:

—a job count of only 25-30, most of which will be technical and may well be imported;
—a tax revenue base of only $1MM or so, which is extraordinarily low given the $1BN facility cost and potential revenue to be generated by plant operations;
—it is not even clear that we will benefit from improved, lower cost electrical supply.

38-10 cont.

- On a very personal note, we purchased this property later in our lives and have always intended that it would be our retirement—whether we live here or enjoy the benefits of a healthy profit from its sale. It is beautiful and we have worked very hard for 17 years to make it more so. It is OUR ENVIRONMENT and by anyone's standard, a power plant located virtually next door will not improve its value to us or to someone who might buy it. This puts half a lifetime's worth of energy and effort in jeopardy and makes a bright future seem less than the certainty that we have every right to expect it would be. I am sure that many of our neighbors feel the same.

38-11

Although the DEC may consider property value to be outside its purview, we ask that you do carefully consider the negative perceptions of real environment that will result from developing a power plant in such a beautiful, largely rural area. Consider requiring compensation from CVE for losses in local property value as part of an overall contingency fund.

Thank you for your consideration of these matters.

Sincerely,

Stephen & Cate Wilson

Stephen and Cate Wilson

39

From: "Susan Holland" <susan-holland@usa.net>
To: <depprmt@gw.dec.state.ny.us>
Date: 8/5/2011 1:32 PM
Subject: Cricket Valley Energy DEIS

Dear Mr. Tomasik,
As the DEC's mission includes supporting environmental justice, I strongly urge you -- please do not allow the Cricket Valley Energy project in Dover, New York to go forward. We simply do not need a new natural-gas-fired power plant to be built in the beautiful Hudson Valley region. There are far too many problems with this project, as other reviewers of the DEIS have already commented on in detail. In 2011 and beyond, we must only permit and create projects that rely on renewable energy sources to satisfy our energy needs. "Natural" gas is most certainly not such a source and has proven to be "dirtier" than coal.

39-1

We do not need this type of power plant to be built here.

Thank you for all you do and thank you for listening.

Sincerely,

Susan Holland
243 Union Center Road
Ulster Park, NY 12487

40

Cristina Bleakley
55 Sherman Hill Rd
Dover, NY 12522

Mr. Stephen M. Tomasik Project Manager
NYS Department of Environmental Conservation
Division of Environmental Permits
625 Broadway- 4th Floor
Albany, New York 12233-1750

8/25/2011

Dear Mr. Tomasik,

Cricket Valley proposed to build a 1,000- megawatt natural gas fired power plant on an old industrial site along Rt 22. As a Dover resident I have some concerns how this plant will affect our air, water, railroad, property value,traffic, noise and jobs. This proposed plant will be built on 131-acre property that includes the Great Swamp. I must be honest as a mother of three and with a mother suffering for Alzheimer I wish I had more time to spend reading all the DEIS documents but I don't. I sit here wondering how I can make a difference even though I have no time to go through all the information necessary to understand the affect of this plant on our Town.

Here are some of the questions I feel we need to address:

1- First off all, we must ask ourselves do we need this huge plant in Dover? Do we need it anyplace else? 40-1

2-What impact will this enormous plant have in Dover and surrounding areas, specially when we live in a valley and our air is already so poor? I think it is imperative to have an outside company do all the studies here in Dover so we can better understand the impact this plant will have in our air. 40-2

3-How the Great Swamp is going to be affected by this plant? Was the study made by Cricket Valley a true reading of how our resources will be affected and what is the long time effect? 40-3

4- Is having the railroad so close do the plant a disaster waiting to happen? 40-4

5- Cricket Valley mentioned they will result in 25-30 permanent jobs . Is it sufficient to have this plant and its impact in Dover just to guarantee 25-30 jobs? Is the risk worth? 40-5

6- How much noise is this plant will generate? Is it safe?After the plant is in operation is not much we can do. Therefore we must concentrate now and we must make sure we don't make a choice without making sure it is best choice for us. All Dover residents have the right to live in a safe environment. 40-6

7- How is our traffic going to be affected? The proposed site for parking is across street from my house and believe me when I purchase my home nowhere in my dreams was a plant nor a parking that accommodate over 800 vehicle. I bought my house in Dover because I wanted to live in a safe and quiet environment. Will the proposed site for the parking create drivers to use side streets such as my road Sherman Hill Rd? 40-7

8-Did Cricket Valley take in consideration the air quality around the parking area? How are they going to control air quality at the plant site and ant the parking site? How are they going to keep the dust that the traffic will create? 40-8

9- What about property value? We must ask who wants to buy a home across the street from a power plant? 40-9

10- How will Cricket Valley provide natural gas to Dover Knolls? Is their any other construction that will take place to provide others with natural gas? 40-10

I must say there is no question that this plant is state of art. One must ask is this plant the best choice for Dover? Do we have enough information? No. Are we moving to fast? In my opinion the answer is yes. I don't know enough about all the impacts this plant will bring to Dover and surrounding towns,Therefore I am writing this letter with my concerns and I truly hope that you take in consideration not only my request but all the other requests from our Dover residents and other surrounding area. 40-11

I thank you for the opportunity to write to you about my concerns regarding Cricket Valley plant and I hope that we the residents of Dover get to an opportunity to get an outside agency to do the studies so we can better understand the impacts this plant will bring into our valley. We must keep in mind we never thought 911 would happen but it did. I don't want the same thing to happen to Dover.

Sincerely,
Cristina Bleakley

41

Public Comment on the Cricket Valley Energy DEIS
Constance I. DuHamel
June 28, 2011

Thank you Willie Janeway, your colleagues at NYS DEC Region 3, and members of the Cricket Valley Energy team for coming together for the purpose of soliciting comment on the DEIS for the proposed project, Cricket Valley Energy.

Thank you, Willie, for announcing today your accommodation for a Saturday session to be incorporated into the SEQRA process on Cricket Valley, and to be scheduled by the Dover Town Board. Thank you, Supervisor Courtien, for requesting a Saturday session. This additional session will give voice to the people of Dover and the Harlem Valley, that they may understand and comment on the negative public health issues surrounding Cricket Valley, most notably with regard to air quality.

I am indebted to Tonia Shoumatoff' for her continuing coverage of Cricket Valley Energy for The Millbrook Independent, and appreciate that from a regional perspective, a new gas-fired plant such as Cricket Valley is preferable to a new coal-fired plant, and that the carbon offset credits can be sold to older coal-fired plants to decommission them. For this area, however, the alternative of a coal-fired plant is not the correct comparison: a coal-fired plant would never be built in the Harlem Valley, nor, in my opinion, is it likely that taking off-line the coal-fired plant Danskammer Plant across the Hudson from Wappinger's Falls will have a positive affect on our air quality, most of which contains pollutants from industrial production in northern New Jersey.

For Harlem Valley and Litchfield County residents however, overall emissions reduction across the rest of New York State is not the immediate public health issue; the issue for our region is how much more polluted the air will be in eastern Dutchess, western Connecticut and the Berkshires, with the Cricket Valley Energy 1000 megawatt power plant coming on line. From that perspective, how does NYS plan to monitor the negative impact on the health of the children at the Dover Middle/High School? Additionally, the measure of the impact of the proposed 1000 megawatt power plant on our region should be cumulative, taking into consideration the relatively poor air quality we are reported to have already, and the extent to which emissions will hang in the air in our valley.

41-1

41-2

41-3

Cricket Valley has agreed not to exceed EPA thresholds for the harmful chemicals in the emissions, and we expect NYS to request these thresholds reflect the cumulative impact of these emissions combined with the pollution levels that already exist in air in the Harlem Valley. We expect that the NYS DEC has in mind those on the front line, our children, exposed day after day to these emissions while engaging in outdoor sports just over a mile upwind from the plant.

With our children in mind, I propose that an air quality monitoring station be sited here, on the campus of the Dover Middle & High Schools, with the data collected by the Cary Institute of Ecosystem Studies, and submitted to the EPA. The residents of the Harlem Valley should not have to rely on the industry practice of self-monitoring, when our

41-4

children's health is at stake and the industry has objectives often at odds with our own. The monitoring of asbestos removal takes place out of Kingston, downwind from the project, because that was the closest monitoring station equipped to collect that data. Does that make sense to anyone here? My father died of pulmonary fibrosis. His pulmonologist, Dr, Edsel of Columbia Presbyterian, said when the World Trade Center was built, asbestos fibers were found as far north as Boston. It is in that direction the prevailing winds blow, and we want our monitoring stations in the way of the prevailing winds, when they blow.

41-4 cont.

41-5

And when they don't, we will know exactly how much more is accumulating in the Harlem Valley, and breathed in by our children, as they continue to engage in outdoor activities, including practice and games for team sports.

Recommendations:

That The Town of Dover retain an independent air quality expert to review the DEIS on our behalf.

The fees will be paid by Cricket Valley Energy in much the same way AKRF's services were paid by Dover Knolls. After reading the Air Quality section of the DEIS, it is clear an industry expert is required to vet this project on the town's behalf: To that end, I recommend Camp, Dresser & McKee, now CDM, to check the data, analysis and conclusions in the CVE DEIS. The hydrogeologist hired by the Coalition for the Responsible Growth of Dover found enough errors in the data, analysis and conclusions from the Dover Knolls pump tests, as presented in the Dover Knolls DEIS, that DEC suggested the Town of Dover and AKRF, the Town Board's planner, incorporate our report in their analysis of the Dover Knolls DEIS.

41-6

That Cricket Valley Energy provide for and initially fund the operation of an asthma clinic for the people of the Harlem Valley.

41-7

That Cricket Valley Energy fund a scholarship program open to all qualifying graduating seniors of the Dover High School.

While one has been proposed for students to study engineering at the college level, this program should be open to all graduating seniors, and for any area of study, whether it be at the trade level or the college level, and for a variety of areas of study. Funds for the scholarships should be endowed up front, and be administered during the useful life of the project, estimated to be 40 years. They might be called "The Useful Life Scholarships," for all our children should have useful lives, and all will be negatively impacted by the pollutants introduced to Dover, not just those higher achieving students who are directed towards engineering.

41-8

That the decommissioning of the Cricket Valley Energy facility includes removal of project-specific construction.

If not, Dover will be faced with another "eyesore" to be retrofitted into our character and fiscal condition 40 years from now.

41-9

That the Great Swamp and the fens of the Harlem Valley be considered as Class 1 properties as defined in the Cricket Valley Energy DEIS.

41-10

The National Park Service owns lands within a 100 km radius (the Appalachian Trail crosses through the Great Swamp in Pawling,) federal funding from US Fish and Wildlife were procured to assist in purchasing the Slocum-Mostachetti Preserve in the Great Swamp, and of the 100 or so fens in New York State, roughly 80% of them are in the Harlem Valley.

41-11

As Class 1 look-alikes, Cricket Valley Energy would monitor their unique ecosystems, not necessarily before construction begins, but certainly during the three years during construction and before the project is up and running. There are many research sites already in place in the Harlem Valley, and Cricket Valley could partner with them in their studies, thereby reducing the costs of initiating a research project.

In closing, I wish to thank all of you for your time, and thank Matt Martin of Cricket Valley Energy for arranging for the recording of today's sessions. As I understand it, the sessions will be available to the public on Dover TV and at CricketValley.com. Once again, thank you very much for permitting the Town of Dover to schedule a Saturday SEQRA session on the Cricket Valley DEIS.

Thank you,

Stancy DuHamel

Wingdale, NY

42

Comments on Draft Environmental Impact Statement for the proposed Cricket Valley Energy Project

My name is Robert M. Herzog. My family has had a house in the Town of Dover for 56 years, roughly 1.5 miles east of the proposed site. In addition, I founded and was the former Director of the Energy Office of the City of New York. In that capacity, I managed the City's representation regarding several proposed power plant sitings, as well as in rate hearings and other regulatory matters. I also managed the City's $150 million energy conservation program, and was responsible for the construction of several alternative energy, small hydro and cogeneration facilities.

Based on that experience, analysis indicates there are several significant issues regarding the proposed Cricket Valley Energy Plant, which I would like to address in these comments.

I. NEED

A. New York State Independent Service Operator finds there is no need

Since the plant is not being built to serve local or Dutchess County needs, but rather contribute to the state and region's capacity infrastructure, the first question that must be asked is -- is it needed? Is it required to fulfill reasonable system capacity requirements in the near future. The answer to that is simple, and based on independent assessment from the people who know best, the New York Independent Service Operator, the organization responsible for planning and overseeing New York State's electricity operations.

Their answer is... no. Based on their expert analysis, NYISO stated in its 2009 Power Trends Evaluation, "Based on current NYISO projections, the state's wholesale electric power system will continue to meet accepted reliability standards through 2018."

42-1

The NYISO 2010 report extends the period of reliability even further, to 2020. It might be more, but that is as far as their forecast period extends. The New York Control Area baseline summer peak demand forecast developed for the 2010 report shows a baseline energy forecast growth rate of 0.41% for the years 2011 through 2021. The 2009 report forecasted growth rate for annual energy in that period was 0.78%. That represents a 47% decrease in one year! The energy growth rate in the 2011 forecast is lower than in 2010 due to a lower econometric forecast and an increase in the projected amount of energy efficiency impacts.

Thus the period when it might be reasonable to consider construction for Cricket Valley would not be until 2018 at the earliest, given the two year construction cycle for building the plant

B. Consideration if Indian Point nuclear plants shut down

The NYISO 2010 report does state that that if the Indian Point nuclear plants were both closed, that the State could fall below accepted standards of reliability (the LOLE, or Level of Load Expectation) by 2016. New York City has taken a strong stand on keeping Indian Point open, based a report issued on July 6, 2011. That report concluded that should the plants be closed the city and state would experience 10-15% increases in major air pollutants such as carbon emissions and nitrogen oxides, while adding at least $1.5 billion dollars to wholesale electricity costs in the city and state. Based on those impacts, it would seem highly unlikely that the plants will actually be closed in the foreseeable future.

There are three projects are under way that could replace some of the power that would be lost if Indian Point closed. These projects — power plants in Astoria, Queens, and Bayonne, N.J., and a transmission cable from New Jersey to Manhattan — total roughly 1700MW, or 85% of the total Indian Point Capacity. While there would still be a shortfall of power to meet the standards for reliability required in the city, it would only be 300 MW, and there are many ways to produce that capacity.

42-2

Needless to say, if Indian Point is not closed, than the additional New York City area projects totaling 1700 MW completely obviate the need for Cricket Valley or any other facility to provide any further capacity in New York State. Should IP be closed, however, it is not accurate to think that Cricket Valley would address any power shortfall, since there is a well-documented bottleneck of transmission capacity in Westchester that would preclude any power generated in the Hudson Valley from reaching New York City.

Other, better alternatives exist or are being proposed in the event they are needed. The Champlain Hudson Power Express Project would carry 1,000 megawatts of wind and hydropower from Quebec to metropolitan New York and Connecticut. Cleaner, cheaper power than what Cricket Valley could provide, and addressing the <u>only</u> potential -- and highly unlikely -- energy capacity shortfall in New York State. Further, more viable alternatives are discussed below.

<u>C. The displacement argument is specious</u>

The DEIS shows its biases within its first paragraphs, stating the plant will supply "needed electricity to the new York State bulk power grid," despite the ISO conclusions. Cricket Valley tries to makes an argument for displacement -- building a new plant burning natural gas would displace other, less efficient plants. The major displacement that will take place will be to move point sources of pollution from other locations to the Town of Dover.

42-3

The attempt to circumvent the NYISO's finding that there is no need to build new capacity by citing the benefits of displacing other more polluting plants is specious. The DEIS states: "Due to the project's superior efficiency it will be dispatched ahead of higher emitting generators, causing those units to operate less frequently, thereby yielding a net air quality benefit across the region."

The ISO in fact dispatches based on price, not pollution, choosing the lowest marginal cost production at any given moment. As the New York Energy Consumers' Council states, "Generators bid in prices for their capacity based on their marginal costs (e.g. fuel), and the NYISO accepts bids to fill its projected demand requirements in each zone. This is called the Locational-based Marginal Pricing (LBMP) Day Ahead Market (DAM). In an effort to arrive at the most efficient market price, lowest bids are considered highest merit and those generators are dispatched first (i.e. base loaded); highest bids are considered lowest merit. This is called the merit order bid stack."

42-3 cont.

That process means that hydro, coal and nuclear plants will always be first in line. While older plants may be less efficient, they have also been partially or fully amortized in rate bases, meaning they may also be competitive on price with a newer facility built at, and requiring a return on, current construction costs. Furthermore, oil is already the lowest merit source of generation for the State, supplying only about 1,200 hours during highest peak demand periods in the year. By contrast, nuclear and hydro are highest merit, supplying base load all 8,760 hours in the year. So the most polluting and expensive plants are already being displaced by existing capacity and load management.

The DEIS's own findings regarding greenhouse gas (GHG) emissions indicate how spurious the displacement argument is. According to the DEIS, the introduction of the Cricket Valley plant actually increases the production of one of the most serious of GHG, CO2, by around 2% annually for the New York State power pool. The total impact on CO2 production with Cricket Valley online is a decrease of .1% -- one tenth of one percent. And that is based on the assumptions that the Cricket Valley-hired consultants are projecting, which would be a best case scenario. In short, local GHG will increase, along with other air pollutants, noise and water impact, while the best case projected for this plant is a negligible positive environmental impact.

42-4

D. Numerous better alternatives exist

But if the system wants displacement, then there are still better alternatives.

1. Currently Proposed Generating and Transmission Capacity

As stated above, a total of 1660 of new transmission capacity and 1060 MW of new generating capacity are currently proposed and in the queue ahead of Cricket Valley. These increases would directly alleviate any potential stress on the one area of the State that could have reliability issues, New York City, and that only in the event Indian Point is shut down.

42-5

2. Alternative Energy Sources

A recent extensive study of the solar generating potential for New York City found it was 5,847 megawatts. The study concluded that given current costs and incentives, building solar power units would be cost effective. Over five thousand

megawatts! If even a tenth of that potential was realized, there would never be a reason to build a plant in Cricket Valley. Solar power cost effectiveness will only increase as technology improves and demand lowers the price of the systems.

If Dover Plains and Dutchess County decided for some reason they wanted to be major contributors to regional energy needs, imagine the solar potential for the county. NYC is 305 square miles, Dutchess County is 825. The cost of construction would be a lot cheaper on the open flat land here than it would be on the rooftops of New York City. Furthermore, the construction and operation of solar energy farms would produce many more construction and permanent jobs, especially for local residents, than would the 25 niche skill jobs that would be the remnant of the Cricket Hill operation.

42-5 cont.

Wind power is also playing an increasing role in meeting power requirements for the State. Should anyone claim that projections based on increases in wind power capacity are not realistic, it should be noted that there were 48 MW of installed wind capacity in New York State in 2005, and 1,348 MW of installed wind capacity in 2011, as documented in the NYISO Load and Capacity Report 2011.

3. Special Case Resources

Special Case Resources (SCR) include distributed generation capacity and interruptible load customers. In 2010, an additional 198 MW was added to the NYISO projections. That follows on an increase in 2009 of 167 MW, a total of 365 MW in just two years. SCR alone could exceed the proposed Cricket Valley 1000 MW of capacity in the next 10 years.

42-6

E. There is no foreseeable need for this plant, and time will only produce more superior alternatives

Over the next five years enormous strides will no doubt be made in producing energy from sources other than fossil fuel burning plants such as Cricket Valley. These new sources will not have enormous local impact, on water, air, noise and the environment.

DEC as lead agency with the mandate to protect our environment has the legal responsibility to consider the NYISO's findings and the likelihood of far better alternatives available during the time frame when they will actually be needed. Circumventing or ignoring such findings would be a violation of DEC's mission, which is to "conserve, improve and protect New York State's natural resources and environment and to prevent, abate and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well-being." - Environmental Conservation Law, Article 1

42-7

DEC states its goal is to "achieve this mission by embracing the elements of sustainability - the simultaneous pursuit of environmental quality, public health, economic prosperity and social well-being, including environmental justice and the

empowerment of individuals to participate in environmental decisions that affect their lives." Approving a fossil fuel plant that is not needed and consumes a non-renewable, more polluting fuel is clearly not consistent with DEC's mission. Any decision to site this plant now would have to be considered arbitrary and capricious, and open to challenges on those grounds.

42-7 cont.

II. NOISE

A. Noise is a serious pollutant

Noise is a particularly invidious pollutant. It can permeate landscapes, has different impacts depending on area topography, and once a source is permitted, nearly impossible to regulate. A local business not far from the Cricket Valley site, JTR Bus Company, must work on its buses inside its garage; when it doesn't, the noise can be heard for miles around.

Noise has the potential to devastate the character of the environment which the plant wants to inhabit. Noise is a constant irritant. The plant has described the sound coming from it as that of a light rain. That's also the sound of constant traffic. That noise will be heard constantly for substantial distances around the plant. A study by Cornell University environmental psychologists, published in the Journal of the Acoustical Society of America (Vol. 109, March 2001), found that "even the low-level but chronic noise of everyday local traffic can cause stress in children and raise blood pressure, heart rates and levels of stress hormones."

42-8

B. The noise levels projected for the plant will have a devastating local impact

Initially, the plant's developers claimed they would produce an average no louder than 50db -- meaning that it will frequently be higher than that level. A study for the European Commission (known as RANCH) investigated road traffic and aircraft noise exposure and children's cognition and health. It found that children exposed to noise levels over 55dB(A) achieved lower scores in reading tests and the affected children will be disadvantaged in their development of speech and reading abilities as well as more general communication skills. Noise may also have effects on fetal development due to (stress) effects on expectant mothers. Environmental noise also has cognitive effects in older children and adults, due to hindering communication, as shown by studies of aggression, mental health and anxiety.

42-9

The World Health Organization (WHO) "recognizes community noise, including traffic noise, as a serious public health problem." There is a general consensus about the noise levels which cause health impacts:

- Environmental noise above 40-50dBA Leq is likely to lead to significant annoyance.
- Outdoor noise levels of 40-60 dBA Leq may disturb sleep.

Based on their own numbers, the Cricket Valley plant will continuously exceed these levels.

42-9 cont.

Other studies have shown that sound greater than 30db can disturb sleep, and exposing students to a constant hum in that range has been demonstrated to interfere with learning, yet it now seems clear that that is precisely the impact the Cricket Valley plant will have.. The Dover High School is around 1000 yards from the plant. There is no reason why the students of that school should be subject in perpetuity to the constant noise emanating from the plant, which will infiltrate their classrooms and study halls. The Town of Dover is being asked to sacrifice the learning environment of its most precious resource, its children and students, for the dubious distinction of building an unnecessary power plant for a system that doesn't need it.

42-10

C. The plant developers admit they cannot meet existing standards

The noise section of the DEIS begins with a reassertion of the nature and reason for noise regulations, and that the facility's design "goals" (not operational commitments) have been established based on state and local regulations. Only later do we learn that in fact the facility will not be able to meet local regulations, and requires a waiver to override the noise regulations that are in effect to protect local residents.

The DEIS states:

"Despite the incorporation of state-of-the-art design and engineering components to mitigate facility sound, there are locations along two property lines where noise mitigation measures will not mitigate so as to be totally compliant with the performance standards set forth in Section 145-40. While the project is expected to comply with the most restrictive night time sound level limit (50 dB(A)) of the Town of Dover Zoning Code at the north and east property lines, the west property line abutting the Metro-North rail line and the southern proposed property line abutting other industrial zoned property are expected to be non-compliant (> 50 dB(A)). However, these properties are not occupied by noise sensitive uses. To the contrary, the non-compliant property lines abut a railroad track and a proposed industrial facility."

CVE is admitting they will be unable to meet existing sound regulations, and proposed to get around this otherwise fatal flaw not by changing their equipment, but by petitioning for a change in the standard, as if the standard need not apply to them. They seek to get around the regulations by trying to make a case that sounds emanating from the plant will be uni-directional, magically being confined to the rail line. In reality, the sounds made by various equipment in the plant will radiate broadly, ending up in the homes of residences and other uses in the area who will have no effective protection from levels that exceed existing regulations.

42-11

That is literally intolerable -- noise regulations were designed to protect local environments and residents. It is precisely when an entity cannot meet such regulations that they are not to be discarded, for that is when they are most needed. CVE

acknowledging they cannot and will not meet these standards, will violate them, and too bad for the locals.

The levels of 59db the plant will be emitting, well in excess of the 50db limit, are not trivial. The EPA reports that outdoor noises in the 60db range historically generate widespread complaints and individual threats of legal action. The Town of Dover does not want to and does not need to impose this burden on its residents for years to come.

42-11 cont.

D. The Town of Dover has the authority and good reasons to deny any noise pollution waiver

The town has ample authority to deny the plant on the grounds of noise, as captured in the Town Code Chapter 107:

> *noise shall be prohibited when it is of such character, intensity and duration or of any type or volume that a reasonable person would not tolerate under the circumstances and that is detrimental to the life, health or welfare of any individual or would cause or create a risk of public inconvenience, annoyance or alarm.*

Indeed, a standard must be used that doesn't violate these guidelines. For that, the plant must meet a standard at all times of sound that will not impinge on local residents, and students, well-being. That standard is 30db, as it has been demonstrated that sound above that level can disturb sleep.

Chapter 145 of the Town Code allows for higher sound levels during the day, and lower at night. The Code was clearly designed with residents in mind; since the local high school students are in effect daytime residents, in a sensitive learning environment, the most stringent sections of the code should apply during the day as well as at night for the plant.

E. Construction noise will have terrible local impacts

For three years construction noise levels will be substantially in excess of both regulations and generally recognized safe levels. It will occur primarily during school hours. As the DEIS states in Appendix 6, "Construction producing significant noise levels will occur during daylight hours, where possible." And later, "Controlled blasting will only occur during daylight hours, when background sounds are significantly higher. Sounds produced by blasts are not expected to be disruptive at any of the nearby occupied properties."

42-12

Clearly the consultants paid by CVE to write the DEIS have their own self-serving definitions as to what is expected to be disruptive, and to whom.

Construction noise will approach 90db. Studies show that noise in excess of 65 db precludes a conversation. Allowing this plant to be built effectively means sacrificing

several high school class years. This noise will decimate the high school learning environment. For what? For a plant that will never provide them or any other local resident any lasting benefit, and that has at best questionable benefits for the region. And what kind of a message will it send to the students in Dover, as to the town's priorities?

42-12 cont.

As the DEIS states, "Prior to initial steam turbine powering, steam blows are use to clear debris and surface scale form steam piping that could potentially damage steam turbine blades. The sound generated during this process can be significant if it is not properly controlled. Mitigation for this sound will include the use of temporary steam blow silencers which be selected to limit sound impacts to less than 70 dBA at the nearest residences. This process is brief in duration, typically lasting 2–3 minutes per blow. Approximately 30-50 blows are required to clean the lines, which occurs over a 2–3 week period. This type of event will be limited to weekday daytime hours only.

F. Once the plant is open, the Town will have little recourse to address noise issues

The plant operators can make whatever claims they want regarding noise, but the practical fact is, once the plant is open, there will be few ways to measure and no ways to mitigate should they exceed their noise standards. No one would close the plant down for a noise violation, the local inhabitants can complain repeatedly and nothing will ever be done. That's the way the system works.

42-13

III. DEIS Alternatives

A. The DEIS does not conduct a serious study of alternatives

The Analysis of alternatives is best summed up by one of the four principal reasons for rejecting other sites:

"None of the other sites are owned or controlled by CVE."

42-14

Their theory would thus seem to be that once CVE acquired this property, that becomes a determinative factor in allowing the plant to proceed to construction. To state the obvious, the bet that CVE made on land acquisition, and finding what it evidently assumed to be a complacent locality in which to build a plant with major local disruption and few local benefits, should play no role in this siting decision.

Other elements of the Alternatives section are equally spurious. Solar and wind alternatives are rejected because they would require more acreage than is on the CVE site. Again, the characteristics of this one site should play no role in determining an optimum energy future for New York and the region.

42-15

B. The No Action alternative is the only responsible choice at this time

The No Action alternative is of course not accepted, since the purpose of the DEIS is to support the proposed action. But the No Action plan, in the context of no need

42-16

for the plant, the likelihood of more viable alternatives being available by the time the regional grid requires additional capacity, and the serious negative local impact the construction and operation of this plant will have on the quality of life around it, is clearly the best alternative at this time.

42-16

CVE and the state can reconsider this application in 2018 with ample time to meet whatever projected capacity needs the state might have at that time, and what are the then best alternatives, from conventional to alternative, to meet those needs. CVE and its parent should explore other alternatives before imposing the burden of their prior purchase on the town of Dover.

C. The economic benefits are minimal systemically, and non-existent locally

As to the purported economic benefits, the DEIS's own findings are that only half of the benefit of reduced costs that they themselves project will benefit New York State; the remainder will benefit PJM, a regional transmission system that benefits Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia. The New England power pool will also reap gains. The reasons for the town of Dover to have to supply benefits to all these other states, primarily to serve as a source of profits for CVE, are not equitable, rational or compelling.

42-17

D. Additional studies must be done by unbiased sources

It is worth noting that the energy cost and environmental impact studies were prepared by General Electric. GE will also be selling to CVE major pieces of equipment for the facility, for hundreds of millions of dollars. Their findings in support of the plant are hardly a surprise, and an alternate study performed by a truly independent and unbiased organization, selected by the community, should be conducted for this and all other major findings of the DEIS that were derived from interested parties. As the DEC's mission includes supporting environmental justice, it should mandate that CVE provides funds for such studies, since the community is hard pressed to do so

42-18

IV. Reliance on Cheap Natural Gas is Questionable

The dependence on the assumption of low natural gas prices maintaining Cricket Valley's competitiveness is questionable. Recent articles in the New York Times, such as on June 26th ("Behind Veneer, Doubt on Future of Natural Gas") discussed the growing concern that natural gas prices will rise despite the hopes of new investment in production. And should the forces of reason prevail and the noxious practice of fracking be prohibited or limited, that will further put pressure on gas prices to rise.

42-19

Plants all over the country are being built to take advantage of the relatively low prices of natural gas. That in and of itself will increase demand and prices. No one can predict commodity prices, except to say they fluctuate, and that limited resources will ultimately rise in price.

There seems little doubt that over the life of this plant natural gas prices will become relatively higher. All this adds up to the residents of Dover being forced to endure increased local point source air pollution, noise pollution, impingement on water and destruction of the character of the area, for a plant whose output could have been far better supplied through cleaner, more sustainable long term sources that brings no local benefits and questionable regional ones.

42-19 cont.

Why?

V. Developer's History is Problematic

Cricket Valley Energy exists only to develop the Cricket Valley project. It is owned by a parent company, Advanced Power AG, a Swiss-based, privately-owned company. How many projects is Advanced Power currently operating? None. That company has only built only two plants, both considerably smaller, and both outside the United States, subject to different regulations.

Further, Advance Power rapidly sold both plants once they were up and running, so they do not have to live with any consequences of operating them. What this means is that it doesn't matter with whom our community has been dealing, or what commitments they make. Within a short time after construction is completed, we can expect Cricket Valley to flip the plant, selling it to new players who may have little or no regard for the operating commitments that Cricket Valley made. The residents of the Town of Dover should not be forced to be pawns in this scheme.

42-20

RAP-1

From: "Gary J. Napp" <gary.napp@enviromet.net>
To: "'Stephen Tomasik'" <smtomasi@gw.dec.state.ny.us>
Date: 12/14/2011 3:56 PM
Subject: RE: Cricket Valley Energy Project - Re-Notice of Air State Facility Draft Permit and Title IV Draft Permit

Steve,

Thanks for the notice.

One thing - on p. 23 of the Air State Facility Permit, DEC lists a heat rate limit of 7,605 Btu/kWh on a Lower Heating Value (LHV) basis. The applicant should confirm that is correct and that the value is not on a Higher heating value (HHV) basis. In their draft EIS they had the value but did not list the basis.

RAP-1

Thanks,

Gary Napp
610-640-4401

-----Original Message-----
From: Stephen Tomasik [mailto:smtomasi@gw.dec.state.ny.us]
Sent: Wednesday, December 14, 2011 3:26 PM
To: Stephen Tomasik
Subject: Cricket Valley Energy Project - Re-Notice of Air State Facility Draft Permit and Title IV Draft Permit

Please be advised that DEC has issued a Re-Notice of the Air State Facility Draft Permit and the Title IV (Acid Rain) Draft Permit for the Cricket Valley Energy Project. DEC will accept comments on the revisions to the Draft Air State Facility Permit and the Title IV (Acid Rain) Draft permit through January 13, 2012. This notice can be found in today's Environmental Notice Bulletin (ENB), available at:
http://www.dec.ny.gov/enb/20111214_reg3.html#313260027500005

Stephen Tomasik
Project Manager
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625 Broadway - 4th Floor
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PH: (518) 486-9955
FAX: (518) 402-9168
smtomasi@gw.dec.state.ny.us

RAP-2

From: Suilin Chan <Chan.Suilin@epamail.epa.gov>
To: "Stephen Tomasik" <smtomasi@gw.dec.state.ny.us>
CC: Frank Jon <Jon.Frank@epamail.epa.gov>
Date: 1/4/2012 10:43 AM
Subject: Re: Cricket Valley Energy Project Re-Notice of Air State Facility Draft Permit and Title IV Draft Permit

Stephen:

Condition 22 of page 23 of the draft Cricket permit states the following:

The combustion turbines shall have a thermal efficiency of 7605 Btu/kW-hr (LHV) at ISO conditions without duct burner firing. The facility shall conduct a thermal efficiency test on a minimum of one combustion turbine annually.

My question is why is the facility only required to conduct a thermal efficiency test on just one of the three combustion turbines annually, and not all three. Is there a specific reason for monitoring just one of the three turbines? Would testing of one turbine per year yield sufficient and reliable data that are representative of the other 2 turbines?

RAP-2

Thanks,
Suilin

From: "Stephen Tomasik" <smtomasi@gw.dec.state.ny.us>
To: "Stephen Tomasik" <smtomasi@gw.dec.state.ny.us>
Date: 12/14/2011 03:26 PM
Subject: Cricket Valley Energy Project Re-Notice of Air State Facility Draft Permit and Title IV Draft Permit

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RAP 3 through 7

Evelyn and Joseph Chiarito
90 Craig Lane, Dover Plains, NY 12522
845-877-6498

January 13, 2012

Mr. Stephen M. Tomasik, Project Manager
NYS Department of Environmental Conservation
Division of Environmental Permits
625 Broadway – 4th Floor
Albany, New York 12233-1750

Fax: 518.402.9168 - Email: smtomasi@gw.dec.state.ny.us

RE: **Cricket Valley Energy DEIS comments**
Cricket Valley Energy Proposal located at Route 22, Town of Dover, Wingdale, NY

Dear Mr. Tomasik:

My husband and I are home owners and taxpayers in the Town of Dover and submit comments below on the proposed Cricket Valley 1,000 MW electric generating facility to be located at the old Mica Plant campus.

Air quality remains a big concern for me due to the fact that we reside in a very narrow valley with large mountains surrounding us on the east and on the west resulting in frequent air inversions. Attached is an eye witness account from an experienced hang glider, Jim Wise, who detailed the air quality conditions and air inversions in March 1988 when at that time the Town of Dover was targeted for a burn plant. I don't think the air inversions in our valley have drastically changed or mysteriously disappeared since that time. RAP-3

Dover, being a poorer and economically challenged community of Dutchess County, still appears to be targeted and attract the more polluting uses. It still reminds me of what has happened in poor communities in the Bronx and New York City and the resulting health problems and high asthmatic rates among the children of those communities. RAP-4

You cannot compare air quality at Ninham Mountain in Putnam County in the Hudson Valley or Thomaston (which I never even heard of) to our small narrow Harlem Valley. We are separated by mountains and Ninham is not even near Dover. I must keep repeating Dover is in a narrow valley contained on the east and on the west by high mountains. RAP-5

You need to obtain current accurate information as to the air quality in the Harlem Valley. You need a benchmark. How can you possibly accurately evaluate and compare the air quality once the plant begins operations. Also, what can be done about the air quality at that time if it is shown to be drastically more polluting? It is highly unlikely that the plant will be shut down once constructed. DEC just issues permits. Credits from other locations which have cut down on their emissions cannot possibly reduce our more polluted air. It just doesn't make any sense. Poor air quality is such a serious health impacting issue RAP-6 RAP-7

Also attached is some information which I just came across in old files. Mica Plant was once designated a CEA. The CEA file lists toxins located at the Mica site and references DEC files and a map showing disposal area sites which you may wish to pay more attention to. I didn't see any reference to anything like this in the DEIS but perhaps I missed it. It may be useful to have this information so that if there is any removal of soil that it may be handled properly. Perhaps you can locate some of the DEC files referencing this site.

Thank you for the opportunity to submit comments.

Respectfully Submitted,

Evelyn Chiarito and Joseph Chiarito
echiarito@aol.com

Attached: Harlem Valley air inversions – newspaper article 1988
Mica Products CEA report 1985

and Dover CACs have been working together to study the environmental impacts of the proposed combination "red bag" and municipal waste burn plant in Wassaic.

Reagon said last week that there are problems associated with placing a burn plant in a valley like the Harlem Valley because of a phenomenon known as "temperature inversions."

Inversions occur, he explained, morning in Wassaic. Another example, he said, can be seen on winter days under sub-zero temperature conditions when the existing WDC smokestack's emissions have visibly leveled off and remained in a horizontal, white strip across the sky.

Reagon said the emissions from Remtech's smokestack, which is proposed to be same size as the existing smokestack, would be dense enough trapped smog in the Harlem Valley. "Everything goes up together," he said. "The federal Environmental Protection Agency's regulations as they presently stand won't permit emissions from any stack that will fall around the stack. Particles, primarily, are less than 10 microns in size and are carried in the air with gases and rise up through the plume."

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Hang-glider: Inversions are common

Dover hang-glider Jim Wise says temperature inversions occur frequently in the Harlem Valley. In fact, he says the inversions are so strong at times that he and his flying partners cannot rise above them when attempting to soar toward the clouds from a ridge in Wingdale.

Wise and his friends take off year around from a ridge near the Thomas Boyce Park in Wingdale, just north of the Harlem Valley Psychiatric Center. On a good day, Wise can soar as high as 10,000 feet above the ground. Quite often, though, he has not been able to rise above a pervasive layer of dormant, trapped air which he says frequently hovers over the Harlem Valley—particularly in the summertime.

In a Sunday interview, Wise said he has encountered temperature inversions when trying to fly off that ridge and has often had difficulty soaring above what he characterized as a lid of dormant air. Wise maintained, however, that he is not a meteorologist and has not logged the air quality of the Harlem Valley over a long period of time. Nonetheless, Wise said he is familiar with the phenomenon recently cited by opponents of the Remtech garbage incinerator.

On a clear day...

Wise said that when there is air pressure from the south, it traps the valley air, sometimes as high as 1,000 feet above the ground. From his vantage point in the sky, Wise said he can actually see the point where cold and warm air meet and where the lower, foggier air gets trapped in what is called an "inversion." Wise described it as a condition which occurs primarily when there are southerly air flows.

"The cold air gets trapped and a lid gets put on it," he said. "You can actually see this lid as a yellow band of hazy air." Wise said that beneath the yellowish band there is a predominantly gray fog. He added that the condition can last for several days until a weather front from the north moves it out.

And, when he is gliding within the fog, Wise said he can actually smell the emissions from the Harlem Valley Psychiatric Center's smokestack, though he cannot see any particles from it.

"It smells like burning leaves," he said.

Wise said the stagnant air is occasionally so dense that visibility is limited. "On a clear day, a northwesterly day, you can see all the way to Manhattan," he said. "On other days, you can't see to Dover."

And, these inversions, which cause dense, stagnant air, can last for days according to Wise. Wise attributed these relatively long-term inversions to the Harlem Valley's narrow terrain. With high ridges to the east and west, Wise believes it takes a strong weather system to move pockets of trapped air out of the region. And, from his perspective as a hang-glider, this means a lot of days when he is unable to move upward from the Wingdale ridge he begins from.

"If the inversion is low level enough, we're stuck," he said. "We can really just fly out and land. We can't soar."

FROM: Harlem Valley Times March 16, 1988

This information package has been prepared by the Closed Landfill Committee of the Dutchess County Environmental Management Council.

EMC Closed Landfill Committee

William Reiner, Chairman	EMC Member-At-Large
Donald Alvarez	EMC Member-At-Large
Norm Benson	Dutchess County Soil & Water Conservation District
Norene Coller	EMC Chairman
Eric Gillert	Dutchess County Planning Dept.
Basil Harrison	Interested Citizen
Jack Hill	Dutchess County Health Dept.
Ann Loedy	Dutchess County Legislature
William Sullivan	N.Y.S. D.E.C.
Holly Thomas	Dutchess County Planning Dept.
Christine Kane	EMC Program Assistant
Charles Shaw	EMC Executive Director

Dutchess County
Environmental Management Council

P.O. Box 259
Farm & Home Center, Millbrook, N.Y. 12545
(914) 677-3488

April 15, 1985

Dutchess County Legislature
& Executive Branch
22 Market Street
Poughkeepsie, NY 12601

To: Members of the Dutchess County Legislature & Executive Branch

This informational package has been prepared by the EMC Closed Landfill Committee for use by the public and members of the Dutchess County Legislature at the May 8, 1985, public hearing which is being held to designate suspected hazardous waste sites as Critical Environmental Areas (CEA's) under the State Environmental Quality Review Act (SEQRA). In this package you will find a summary of data collected on the suspected hazardous waste site being considered for designation. The data on each site consists of the following:

1. The site name and the six-digit code number assigned to it by the New York State Department of Environmental Conservation (DEC);

2. The type of site, including a brief description;

3. The type and quantity of wastes known or believed to have been disposed of at the site, and the names of any pollutants found in leachate, goundwater, surface water, or soil samples taken from the site;

4. Significant threats to the environment;

5. Significant threats to public health;

6. A map (at a scale of 1":2000') depicting the geographic location and approximate size of the site, and;

7. A copy of the Inactive Hazardous Waste Site Report that was prepared by DEC.

Most of this information was obtained from DEC and Dutchess County Health Department files. Statements concerning environmetnal problems associated with the sites are based on Dutchess County Environmental Management Council records as well. Considerably more detailed information about each site is available from these sources.

In preparing each site summary, the Closed Landfill Committee concentrated on field visit records, historical reports, and test results. "Hearsay" allegations were disregarded. In some cases, test results confirmed the presence of various pollutants at the sites; in other cases, Health Department and DEC records support a reasonable suspicion that hazardous wastes are present.

The CEA designation does not place any land use restrictions on these sites, nor does it replace any ongoing federal, state, or local investigations. Instead, it gives local governments, present landowners, and prospective buyers a mechanism for assessing the environmental impacts these sites may have without massive expenditure of funds.

The Environmental Management Council urges the County Legislature to designate this suspected hazardous waste site as a Critical Environmental Area under the New York State Environmental Quality Review Act. This action is necessary to ensure that environmental and health risks will be fully evaluated before this site is altered. The citizens of Dutchess County deserve the protection that a CEA designation can provide.

Sincerely,

William Reiner

William Reiner, Chairman
Closed Landfill Committee

WR:ck

January 5, 1985

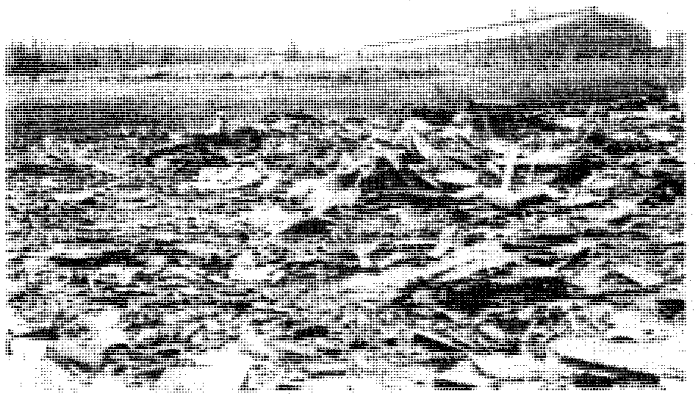
CRITICAL ENVIRONMENTAL AREA

MICA Products
DEC Code Number: 314009
(MICA Products is listed on the New York State Registry of Suspected Hazardous Waste Sites - see attached sheet).

Type of Site

DEC records state that the MICA Products site is currently an inactive open dump that was still in use as of 1980. DEC records also show that there was no permit issued for the dumping.

Located in the Town of Dover, between Route 22 and the Swamp River (see Figure 1), a Cornell University study located at least four disposal areas on the premises totalling approximately 13.4 acres(1). (See Figure 2). Two of the disposal areas are on the north side of the building complex, and, as of June 7, 1984, remain uncovered (area #1 = 1.7 acres and area #2 = 4.4 acres); while the two disposal areas on the south side are covered, heavily vegetated, and are considered abandoned (area #3 = 1.0 acre and area #4 = 6.3 acres).



The facility was first opened in 1932 as a magnesium plant(2) and was used for refining magnesium from local ore on and off until 1966 when MICA Products bought the property and began to manufacture formica products there(3). MICA Products went out of business in October 1980 and closed the facility. The property was purchased in October 1980 by Cipher Equity (4) and then sold to Cecilia Greco who is the current owner(5).

The site has been classified by DEC as Class 2a under New York State Superfund legislation. This classification is a "temporary classification assigned to sites that have inadequate and/or insufficient data for inclusion in any of the other classifications."(6)

Waste Disposal

The quantity of wastes fills 13.4 acres to an estimated depth of three to seven feet. Site observations of wastes include various containers full and half-full labeled Epolith Primer Activator, Rexlube Lubricant, Orelite Emcotone Stain Lacquer, Agway Coolant Concentrate, Emcotone Stain, flat lacquer, and Keystone Precision Lubricant in various stages of decay (leaking, rusting, etc.), empty 55-gallon barrels, glue, wood pallets, manufacturing by-products, sawdust suspected of containing acid, construction debris, books, cardboard, and other garbage and appliances(7).

Significant Threats to the Environment

Preliminary Dutchess County Health Department testing done on August 17, 1982, found low concentrations of bis (2-ethylhexyl) phthalate, chloromethane, iron, diethyl phthalate, and N-Nitrosodiphenylamine. The site is located in a wetland in an area that drains in a westerly direction downslope into the Swamp River(8). The Swamp River is less than one-quarter mile from the site, and it empties into the Tenmile River.

Table 1
Results of Surface Water Analysis
MICA Products - August 1982

Parameter	Concentration* Sample 1	Sample 2	Proposed Surface Water Quality Standards
Phenol	< 4. ppm	< 4. ppm	.001 ppm
pH	9.89	7.19	
Zinc	< 0.01 ppm	0.03 ppm	.3 ppm
Iron	0.05 ppm	2.64 ppm	.3 ppm
Chloromethane	< 1.00 ppb	5.00 ppb	
bis (2-Ethylhexyl) phthalate	38.00 ppb	4.00 ppb	.01 ppb
Diethyl phthalate	2.00 ppb	2.00 ppb	.05 ppb
N-Nitrosodiphenylamine	< 1.00 ppb	2.00 ppb	.014 ppb

*ppm = parts per million
ppb = parts per billion

Source: CAMO Pollution Control, Inc.
Poughkeepsie, New York 9/24/82

According to DEC and Dutchess County Health Department records, MICA Products operated for some time without a permit under the State Pollution Discharge Elimination System (SPDES). This system regulates industrial discharges to surface water through the setting of specific limits for parts of an industry's wastewater and effluent discharges. In 1975, DEC notified MICA Products that a SPDES permit was needed for an effluent discharge and a subsurface glue process waste discharge to groundwater, which was applied for and issued with pH requirements only.

Significant Threats to Public Health

The site is located directly off Route 22 and is easily accessible from Route 22 and the railroad tracks behind the plant. The nearest public wells are approximately 1.5 miles south of the site with a second public supply approximately three miles north(9). There is one business within 1,000 feet and five homes and one business within 2,000 feet of the site that rely on wells for their water supply. Dover High School is approximately three-quarters of a mile from the site and also has its own well.

A proposal for a 212 unit residential subdivision to be located across Route 22, within approximately one-half mile of the site, has been submitted to the Town of Dover and is under consideration by the Town of Dover Planning Board.

The Swamp River is classified C(t), which is defined as "suitable for fishing and all other uses except as a source of water supply for drinking, culinary, or food processing purposes and primary contact recreation and trout are present or it is suitable for trout."(10) North of the site, the Swamp River empties into the Tenmile River, which is also classified as C(t), and is used for recreational purposes such as fishing and swimming.

Sawdust from MICA Products operations was originally sold to area farmers for use as bedding for cows. This practice was stopped due to problems with the cows, such as chronic sores, tearing of eyes, etc.(11).

(47-15-11 (10/83)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF SOLID AND HAZARDOUS WASTE
INACTIVE HAZARDOUS WASTE DISPOSAL SITE REPORT

PRIORITY CODE: 2a SITE CODE: 314009
NAME OF SITE: Mica Products REGION: 3
STREET ADDRESS: Route 22, Dover Plains
TOWN/CITY: Dover COUNTY: Dutchess

NAME OF CURRENT OWNER OF SITE: Mica Products
ADDRESS OF CURRENT OWNER OF SITE: Route 22, Dover Plains, NY 12522

TYPE OF SITE: OPEN DUMP [X] STRUCTURE [ ] LAGOON [ ]
LANDFILL [ ] TREATMENT POND [ ]

ESTIMATED SIZE: 2 ACRES

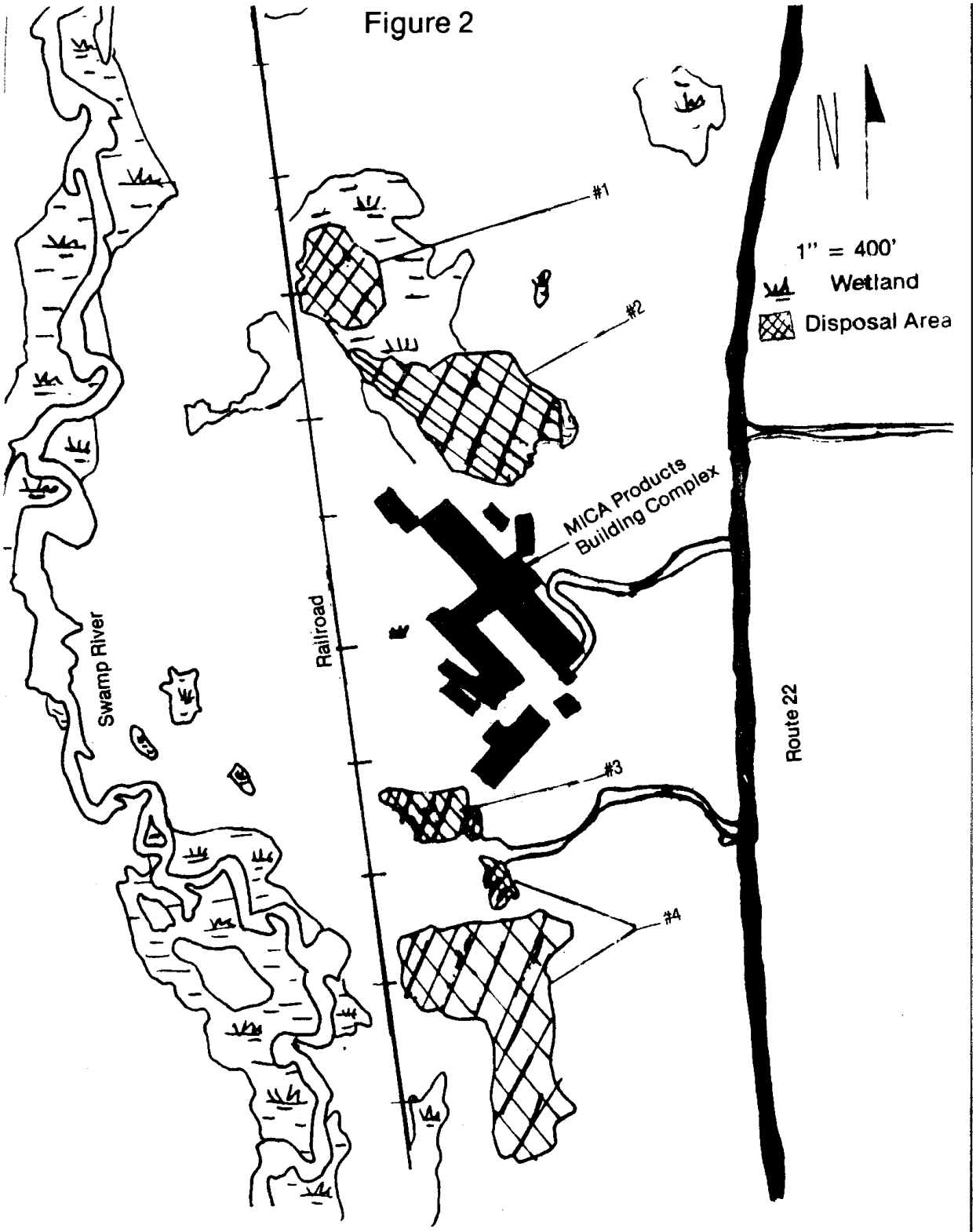
SITE DESCRIPTION:

We area. Fenced site, no access. Flat topography. No residences within ¼ mile. Site in use and not vegetated.

HAZARDOUS WASTE DISPOSED: CONFIRMED [ ] SUSPECTED [X]
TYPE AND QUANTITY OF HAZARDOUS WASTES DISPOSED:

TYPE	QUANTITY (POUNDS, DRUMS, TONS, GALLONS)
Possibly magnesium	

Figure 2


N
1" = 400'
Wetland
Disposal Area
#1
#2
#3
#4
MICA Products
Building Complex
Railroad
Swamp River
Route 22

REFERENCES

(1) Eugenia M. Barnaba and Arlynn W. Ingram, Sequential Air Photo Analysis of MICA Products Waste Site. Cornell University Resource Information Laboratory, 1981.

(2) New York State Department of Environmental Conservation, Reported Hazardous Waste Sites, 8/14/79.

(3) Office of the Dutchess County Clerk, Liber of Deeds 1215. pg. 983.

(4) Office of the Dutchess County Clerk, Liber of Deeds 1529. pg. 62.

(5) Office of the Dutchess County Clerk, Liber of Deeds 1529. pg. 70.

(6) New York State Department of Environmental Conservation, Inactive Hazardous Waste Disposal Sites in New York State, Appendix Vol. 1.

(7) Dutchess County Health Department file information, field inspections 8/17/82 and 6/7/84.

(8) New York State Department of Environmental Conservation 1982 Tentative Freshwater Wetland Maps and Eugenia M. Barnaba and Arlynn W. Ingram, Sequential Air Photo Analysis of MICA Products Waste Site. Cornell University Resource Inforamtion Laboratory, 1981.

(9) Dutchess County Department of Planning, Water Resources Information System, July 12, 1984.

(10) New York State Department of Environmental Conservation, Bureau of Regulatory Affairs and Part 701 of the 1974 Environmental Laws, Division of Water Resources, Title 6, Chapter 10.

(11) Dutchess County Health Department file memo to Jack R. Hill from Ellis W. Adams, 9/3/81.

RAP-8

From: "Sellars, Fred" <Frederick.Sellars@arcadis-us.com>
To: Mike Jennings; Stephen Tomasik
CC: Jeff Ahrens; Tina Berceli-Boyle
Date: 1/13/2012 10:18 AM
Subject: comments on draft Cricket Valley air permit

Steve and Mike:

We have a few minor comments on the re-noticed draft air permit below.

1. Item 21.2. Please check the CO2 test method. Shouldn't it be Method 3A instead of Method 7E?

2. Items 26.2, 30.2 and 31.2. The PM lbs/MMBtu values for duct firing and non-duct firing both appear as 0.006 lb/MMBtu. We believe you meant 0.005 lb/MMBtu for no duct firing and 0.006 lb/MMBtu for duct firing. The permit should also note that the lb/MMBtu values reflect Higher Heating Value (HHV) and ISO conditions.

3. Item 75.2. The ammonia limit of 5 ppmvd should note that this value is @ 15% O2

RAP-8

Thank you again for your work on the draft permit. Please do not hesitate to contact me if any of the above points require clarification.

Fred

Note new contact information effective 11/14/11:
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