

## **Appendix 5-D: Wetland Permit for Piezometer Installation**

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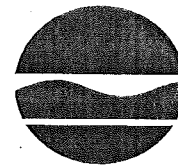
**New York State Department of Environmental Conservation**

**Division of Environmental Permits, 4<sup>th</sup> Floor**

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Alexander B. Grannis  
Commissioner

April 13, 2010

Mr. Jeff Ahrens  
Cricket Valley Energy Center, LLC  
31 Milk Street  
Boston, Massachusetts 02109

**RE: Freshwater Wetland Permit Modification; Cricket Valley Energy Center;  
DEC#: 3-1326-00275/00001**

Dear Mr. Ahrens:

In conformance with the requirements of the State Uniform Procedures Act, Article 70 of the Environmental Conservation Law and its implementing regulations 6 NYCRR Part 621 (Uniform Procedures), enclosed is the Freshwater Wetlands permit for the above referenced facility.

Please read all terms and conditions of the permit. Feel free to contact our office if you have any questions or concerns regarding the terms of the permit or your obligations under the permit.

Sincerely,

Christopher M. Hogan  
Project Manager

cc: F. Sellars, Arcadis (via e-mail)  
H. Gierloff, Region 3  
File



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**Permittee and Facility Information**

**Permit Issued To:**  
CRICKET VALLEY ENERGY CENTER LLC  
31 MILK ST STE 1001  
BOSTON, MA 02109

**Facility:**  
CRICKET VALLEY ENERGY CENTER  
2241 ST RTE 22  
DOVER PLAINS, NY 12518

**Facility Location:** in DOVER in DUTCHESS COUNTY

**Facility Principal Reference Point:** NYTM-E: 618.217 NYTM-N: 4614.773  
Latitude: 42°40'33.4" Longitude: 74°34'47.1"

**Project Location:** Southwest of the junction of SR 22 and Dover Furnace Road

**Authorized Activity:** Installation of piezometers within Freshwater Wetland DP-22 in association with a long term pump test at the site. The pump test is being completed in conjunction with the gathering of environmental site information for a proposed electric generating facility. This approval is limited to the collection of the site information and does not commit the Department to approve any future freshwater wetland permit applications.

MOD 1: Discharge to tributary to the Swamp River in the northern portion of the site. Erosion will be controlled at the discharge point through the construction of a series of stone check dams.

**Permit Authorizations**

**Freshwater Wetlands - Under Article 24**

Permit ID 3-1326-00275/00001

New Permit

Effective Date: 1/1/2010

Expiration Date: 5/31/2010

Modification # 1

Effective Date: 4/13/2010

Expiration Date: 12/31/2010

**NYSDEC Approval**

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: WILLIAM R ADRIANCE, Chief Permit Administrator

Address: NYSDEC HEADQUARTERS  
625 BROADWAY  
ALBANY, NY 12233

Authorized Signature: William R. Adriance Date 4/13/2010

**Permit Components**



## NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

<p><b>NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: FRESHWATER WETLANDS</b></p>
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### GENERAL REQUIREMENTS

**1. State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

**2. State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

**3. State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

### CONSTRUCTION REQUIREMENTS

**4. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by Cricket Valley Energy (see additional condition below).

**5. Conformance with Plans (continued)**

All work shall be completed in accordance with the following plans and/or reports:

- a) Wetland and Swamp River - Installation of Temporary Monitor Wells; Cricket Valley Energy Project - Water Supply Plan; Revision 3; March 26, 2010;
- b) Proposed Drilling Locations; Figure 1; prepared by Arcadis; December 23, 2009.



**6. Notice of Intent to Commence Work** The permittee shall submit a Notice of Intent to Commence Work to Christopher Hogan (cmhogan@gw.dec.state.ny.us) at least 48 hours in advance of the time of commencement and shall also notify him/her promptly in writing of the completion of work.

#### **EROSION CONTROLS**

**7. Discharge of Groundwater** In accordance with the approved plans all groundwater must be stored on site during the pump test. The groundwater may be pumped to the northern portion of the site and discharged just upland of an unnamed tributary of the Swamp River. The discharge shall be controlled through the construction of a series of check dams prior to the water reaching the tributary. If erosion does occur the permittee shall discontinue discharging and stabilize the eroded area with appropriate measures. The discharge of groundwater may recommence upon completion of the stabilization activity and the installation of additional erosion control measures.

**8. Groundwater Discharge - Performance Standard** During the discharge of groundwater the permittee shall adhere to the performance standard that there shall be no sedimentation or visible contrast of the receiving water.

**9. Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

**10. Seed and Mulch Disturbed Areas** All areas of soil disturbance resulting from this project shall be seeded with an appropriate perennial grass, and mulched with straw within 2 days of completion of the pump test. If seeding within two days of completion of the pump test is impracticable because of the time of year, a temporary mulch shall be applied and final seeding shall be performed to the earliest opportunity, but no later than 6 months from completion of the pump test. The check dams constructed as part of the discharge must be removed and the area seeded and mulched if necessary.

#### **GENERAL CONDITIONS - Apply to ALL Authorized Permits:**

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.



**2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Chief Permit Administrator  
NYSDEC HEADQUARTERS  
625 BROADWAY  
ALBANY, NY 12233

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Freshwater Wetlands.

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

## NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the



permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

**Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

**Item C: Permittee Responsible for Obtaining Other Required Permits**

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

**Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.