

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

625 Broadway, Albany, New York 12233-1750

Phone: (518) 402-9167 • FAX: (518) 402-9168

Website: www.dec.ny.gov

Alexander B. Grannis
Commissioner

February 20, 2008

Canandaigua Power Partners II
100 Wells Ave
Newton, MA 02459

Re: Dutch Hill Wind Power Project
DEC Application # 8-4636-00075
Freshwater Wetlands Permit

Dear Mr. Bagnato:

In conformance with the requirements of the State Uniform Procedures Act (Article 70, ECL) and its implementing regulations (6NYCRR, Part 621) we are enclosing your modified permit for the above facility. This modification, the second, supercedes all previously issued permits. All previous versions of this permit must be replaced with this modified permit. This modification was made per your February 5, 2008 written request.

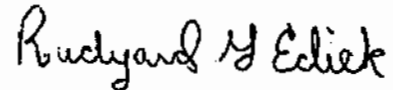
The permit is modified by changing Special Condition 23 to read as shown below. The earlier version made the final plan for post-construction monitoring due on February 5, 2008.

"The permittee shall continue to consult with DEC and the Fish and Wildlife Service (FWS) in the preparation of a work plan for post-construction monitoring and mitigation of avian and bat impacts. An approvable final plan for post-construction monitoring must be submitted to the Department on or before July 3, 2008. The final plan shall include an adaptive management strategy, including identification of a commitment to employ necessary mitigation measures in the event that post-construction monitoring studies identify adverse impacts to resident or migratory birds or bats from operation of the wind energy facility. All measures and requirements included in the approved plan shall be enforceable conditions of this permit."

Please be reminded that Cohocton Power Partners II is responsible for informing its contractors, employees, agents and assigns of their responsibility to comply with terms and conditions of the permit and this authorization while acting as its agent with respect to permitted activities, and such persons are subject to the same sanctions for permit violations as prescribed for Cohocton Power Partners II.

Please read all terms and conditions of the permits carefully. If you have any questions, please contact me at (518) 402-9150.

Sincerely,



Rudyard G. Edick
Project Manager

atch: Modified Permit, Modification 2
Notice of Permitted Work

cc: Town of Cohocton Planning Board
R. Leistensnider,, Nixon Peabody
J. Zigenfus, Cohocton Supervisor
J. Hecklau, EDR
A. Davis, DPS
D. May, DPS
M. Brower, Ag. & Mkts.
J. Peterson, NYSERDA
J. Bonafide, OPRHP
S. Metevier, USACE
T. Sullivan, USFWS
P. Lent, DEC Region 8
DEC Review Team



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:

CANANDAIGUA POWER PARTNERS II LLC
100 WELLS AVE

NEWTON, MA 02459

Facility:

DUTCH HILL WIND POWER PROJECT
WIND TURBINES: ON DUTCH HILL |
TRANSMISSION: ACROSS COHOCTON
VALLEY

COHOCTON, NY 13202

Facility Location: in COHOCTON in STEUBEN COUNTY **Village:** Cohocton

Facility Principal Reference Point: NYTM-E: 295.088 NYTM-N: 4711.331

Latitude: 42°31'37.9" Longitude: 77°29'41.5"

Project Location: Turbines on Dutch Hill, Transmission Line Travels East to Lent Hill

Authorized Activity: The Authorized Activities identified below are to be undertaken in conjunction with the construction, operation, and maintenance of the Dutch Hill Wind Power Project, generating 40 megawatt (MW) of electricity from 16 wind turbines. The project also includes 5 miles of gravel access roads, 2.6 miles of buried 34.5 kV electrical cables (interconnect system), and one permanent meteorological tower. In addition to the aforementioned "Generating Facility", the project includes a "Transmission Facility" consisting of 0.6 mile of overhead 34.5 kV transmission line and 3.2 miles of buried 34.5 kV transmission line. The overhead portion will consist of 15 treated wood pole structures to transmit power from the generating facility site on Dutch Hill to the electrical substation on Lent Hill. The proposed project site involves permanent land use of approximately 15 acres spread over an approximated 2500-acre project area.

Authorized Activities:

Creation of a transmission line corridor (right-of-way) and placement of the transmission line will result in 0.1323 acres of permanent loss of NYSDEC regulated wetland and temporary impacts of 0.0524 acre to NYSDEC regulated wetland NA-6 with restoration to preconstruction contours. With respect to the permanent loss, 0.1323 acres of state jurisdictional wetland will be converted from forested wetland to shrub/scrub or emergent wetland.

Placement of the transmission line and creation of the transmission line corridor will result in permanent impacts to 0.2601 acre of NYSDEC regulated adjacent area (AA) for freshwater wetland NA-6 and temporary impacts of 0.3210 acres to the same wetland. With respect to the permanent loss, 0.26 acres of NYSDEC regulated AA of freshwater wetland NA-6 will be converted from forest to shrub/scrub or herbaceous communities.

The above impacts are mitigated by creating a minimum of 2 acres of wetlands on a privately owned 80-acre parcel in the Town of Fremont, Steuben County on Holmes Road (currently an abandoned field and manged for wildlife). Wetland design involves excavation and construction of a low berm to hold surface water and provide appropriate hydrology and reseeding to develop palustrine scrub/shrub and emergent wetland communities.

The permit was modified, "Modification 1", on 16 January 2008 to amend special condition 10 to require a Final Mitigation Plan prior to the beginning of construction activity at the Fremont Wetland Mitigation Site rather than prior to construction of the wind project itself.

This change, "Modification 2", alters the due date for condition 23 of the permit to read, "An approvable final plan for post-construction monitoring must be submitted to the Department on or before July 3, 2008." Prior to this change, the date was February 5, 2008.

Permit Authorizations

Freshwater Wetlands - Under Article 24

Permit ID 8-4636-00075/00001

New Permit	Effective Date: <u>1/9/2008</u>	Expiration Date: <u>1/8/2018</u>
Modification # 1	Effective Date: <u>1/16/2008</u>	Expiration Date: <u>1/8/2018</u>
Modification # 2	Effective Date: <u>2/19/2008</u>	Expiration Date: <u>1/8/2018</u>

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 2/19/08

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

**NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following
Permits: FRESHWATER WETLANDS**

1. 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 Environmental Design and Research (See List in following condition).

2. Conformance with Plans (continued) All work shall be completed in accordance with the following plans and narratives:

Wetland Mitigation Concept- Fremont Site, prepared by Ducks Unlimited, dated December 2007

Cohocton and Dutch Hill Wind Power Projects; Wetland Permit Applications, UPC Letter to DEC, dated Nov 27, 2007

UPC Wind Operations and Maintenance, LLC Construction and Right-of-Way Vegetation Management Plan - Cohocton Wind Project 115 kV Transmission Line (attachment to UPC Letter to DEC cited directly above)

Cohocton and Dutch Hill Wind Power Projects; Use of Timber Mats - EDR Projects Nos. 05005 and 06077, EDR Letter to US ACE, dated Oct 16, 2007

Cohocton Wind Farm GP02-01 NYR 10M931 SWPPP Acceptance, DEC Region 8 Letter to Canandaigua Power Partners, dated Sep 10, 2007

PSC Proposed Letter of Resolution with Respect to Cohocton/Dutch Hill Wind Projects Cultural and Historic Impact, Addressed to John Bonafide, Aug 2, 2007.

Joint Application for Permit: Dutch Hill Wind Power Project, Environmental Design and Research, July 13, 2007

3. Permit Conditions Permit Conditions take precedence over all plans, drawings, sketches, notes and project narratives made a part of this permit.

4. Submission of Materials Unless otherwise noted, all plans, reports or other materials requested by the department under the terms of this permit shall be submitted to the Chief Permit Administrator, NYSDEC Headquarters, 625 Broadway, Albany, New York 12233-1750.

5. 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.

6. 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.

7. 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.

8. 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.

PRE-CONSTRUCTION REQUIREMENTS

9. Notice of Intent to Commence Work The permittee shall submit a Notice of Intent to Commence Work to the Natural Resources Supervisor, DEC Region 8, 6274 E. Avon-Lima Road, Avon, New York 14414-9519, 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.

10. Final Wetland Mitigation Plan Prior to any construction activity at the Fremont Mitigation Site, a Final Mitigation Plan must be accepted by the NYS DEC. The Final Mitigation Plan must include: 1) an expanded invasive species management plan; 2) a project timeline; and 3) a conservation easement with participating landowners.

CONSTRUCTION REQUIREMENTS

11. Post Permit Sign The permit sign enclosed with this permit shall be posted in a conspicuous location, adequately protected from the weather, at the Canandaigua Power Partners II field headquarters, and copies posted at each worksite where a DEC-regulated activity is authorized by this permit.

12. Fence and Sign Wetland Boundary The wetland boundary shall be conspicuously marked by the installation of snow fencing, plastic fencing (or other temporary, project limiting fencing) and protected area signs to prevent the intrusion of equipment into the protected area. The fence shall be maintained until project completion and then removed.

13. Storage Tanks Fuel or other chemical storage tanks shall be contained and located at all times in an area greater than 100 feet landward of a regulated wetland, water body or water course.

14. Reporting of Spills Any spillage of fuels, waste oils, other petroleum products or hazardous materials shall be reported to the Department's Spill Hotline (1-800-457- 7362) within 2 hours.

15. Prevention and Reporting of Discharge of Concrete to Water All measures and precautions shall be employed to prevent the discharge of concrete to streams or wetlands. If a discharge does occur, all water shall be pumped to an upland area. If a discharge occurs, the DEC Region 8 Natural Resources Supervisor shall be contacted within 2 hours.

16. Hand Clearing Only in Wetlands Trees felled in freshwater wetlands shall be cut by hand and equipment used for removal shall be positioned within the construction corridor described in the work plan. Along the proposed collection lines, equipment used for removal of felled trees shall be positioned



outside of the freshwater wetland boundary or on mats located within the construction corridor. Tree stumps will be left intact except where they pose a safety-related construction constraint.

17. Limited Heavy Equipment in Wetland Heavy equipment operation, including bulldozers, backhoes, payloaders, etc., is authorized in the wetland area only within the construction corridor described in the work plan. Equipment mats shall be employed to minimize wetland impact except where permanent access roads will be constructed. Immediately following project construction, all equipment mats are to be completely removed and the wetland and adjacent area returned to pre-project contours. Operation of heavy equipment is strictly prohibited in wetland areas outside of the authorized work area.

18. Maintain Cover in Stream Buffer If any trees and shrubs growing within 50 feet of DEC-protected streams need to be cut in the process of constructing overhead power line crossings, they shall be cut off with at least two feet of the stump remaining. Stumps and root systems shall not be damaged to facilitate stump sprouting. All trees and shrubs cut within the 50 foot buffer area shall be left on the ground, except that those dropped into the stream or on bare gravel bars shall be pulled back into vegetated areas.

MITIGATION

19. Wetland Mitigation Area (WMA)

The permittee is required to create wetland habitat improvements as mitigation for loss and/or adverse impacts to federal and state jurisdictional wetlands and regulated adjacent areas resulting from this project in accordance with specifications in "Wetland Mitigation Concept - Fremont Site", by Ducks Unlimited, Inc., dated December 2007. Detailed construction plans for the mitigation site and a modified stormwater pollution prevention plan to address sediment and erosion control for the mitigation area must be accepted by the DEC by 15 March 2008. The mitigation plan must be implemented and the mitigation project complete prior to the facility becoming operational.

20. WMA Monitoring The WMA shall be monitored during the first five (5) years post construction, quarterly the first year and twice per year thereafter. The permittee shall provide the Natural Resources Supervisor, DEC Region 8, with a report by December 31 of each year detailing the status of the mitigation wetland and any measures taken to maintain the WMA or meet mitigation goals. Reports shall detail soil conditions, hydrology including water depths, plant survival and replacement, plant species and percent cover, and photographs taken during the growing season. Detection and removal of invasive species shall be included in the report as well as use of the WMA by waterfowl and other wildlife.

21. Replace Lost Plantings The permittee is responsible for maintaining an 85% survival rate of wetland tree and shrub plantings in the WMA. The permittee shall annually replace, in kind, all trees and shrubs that die if the survival rate is not met. Substitution of species and numbers shall only be made after approval by the Natural Resources Supervisor, DEC Region 8. Inspection of plantings shall occur each year no later than August 31 and all replacement trees and shrubs shall be planted by October 15 of each year, for a period of five (5) growing seasons.

22. Re-evaluate Mitigation Goals If after five (5) growing seasons, successful mitigation goals have not been met, the permittee shall re-evaluate the mitigation project in order to determine how to meet mitigation goals and submit plans to be approved by the Natural Resources Supervisor, DEC Region 8.

23. Avian/bat Monitoring and Mitigation The permittee shall continue to consult with DEC and the Fish and Wildlife Service (FWS) in the preparation of a work plan for post-construction monitoring and



mitigation of avian and bat impacts. An approvable final plan for post-construction monitoring must be submitted to the Department on or before July 3, 2008. The final plan shall include an adaptive management strategy, including identification of a commitment to employ necessary mitigation measures in the event that post-construction monitoring studies identify adverse impacts to resident or migratory birds or bats from operation of the wind energy facility. All measures and requirements included in the approved plan shall be enforceable conditions of this permit.

24. Cultural Resources Mitigation The permittee shall continue consultation with the U.S. Army Corps of Engineers and the State Historic Preservation Office (SHPO) to develop and implement an historic resources mitigation plan. The permittee shall provide the Chief Permit Administrator with a report on approved cultural mitigation project(s) by December 31, 2008 and annually until the completion of mitigation activities.

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, NY12233

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.

New York State
Department of Environmental Conservation



The Department of Environmental Conservation (DEC) has issued permit(s) pursuant to the Environmental Conservation Law for work being conducted at this site. For further information regarding the nature and extent of the approved work and any Department conditions applied to the approval, contact the Regional Permit Administrator listed below. Please refer to the permit number shown when contacting the DEC.

Regional Permit Administrator

Permit Number _____

Expiration Date _____

NOTE: This notice is NOT a permit.

