



STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS
Division of Land and Water Resources
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April 19, 2013

Mr. Richard Chandler, Director
Business Development, BP Wind Energy North America, Inc.
700 Louisiana Street, 33rd Floor
Houston, Texas 77002

RE: PSC Case No. 12-F-0410 – Application of Cape Vincent Wind Power, LLC, for a Certificate of Environmental Compatibility and Public Need to Construct an Approximately 200-285 Megawatt Wind Electric Generating Facility in the Town of Cape Vincent, New York.

Dear Mr. Chandler:

I have completed the Department's review of the Preliminary Scoping Statement (PSS) for the proposed Cape Vincent Wind Farm. Below are the Department's comments concerning the PSS.

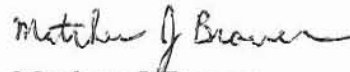
1. Section 2.21.4 includes a description of the 16-foot wide gravel access roads that will be constructed at each turbine site. On page 89 it states that "[d]uring construction, additional area will be compacted on each side of the gravel roads to allow for the additional construction traffic and crane movement. Following construction, these compacted areas will be de-compacted and seeded, leaving permanent access roads with 16 foot travel lanes, plus required shoulder and side slopes." The compaction of the topsoil along the sides of the roads in agricultural areas will be extremely difficult to mitigate sufficiently and damage to the topsoil structure will also occur from this intentional compaction. Restoring the topsoil to pre-construction conditions would be extremely difficult and this method is not consistent with this Department's *Guidelines for Agricultural Mitigation for Wind Power Projects* (Department Guidelines). As a result, this construction method is not acceptable in agricultural areas.
2. Section 2.21.17 discusses the impacts to soil resources and agricultural productivity that can result from the construction activities and lists several of these impacts. The list should include topsoil and subsoil mixing.
3. The first paragraph under the heading "**Compaction and Rutting**" On page 98 of the PSS states "[r]utting and compaction of soils due to travel of heavy equipment may occur on the proposed construction areas. These impacts are of particular concern in cultivated fields and may be more likely to occur when soils are saturated, moist, or poorly drained. To prevent this, grading and compacting will take place prior to transporting larger pieces

of equipment to the Project.” Grading and compaction of the topsoil in cultivated areas, particularly when the soils are wet, will lead to severe damage to the soil resource and would not be consistent with the Department Guidelines. To prevent such damage, the topsoil must be removed from all construction areas in agricultural fields, prior to any grading or compaction. Additionally, no construction equipment or vehicles should be allowed to drive or park on the topsoil in agricultural areas.

4. On page 209 of the PSS, Table 2.32-1 indicates that a Notice of Intent (NOI) will be filed with this Department in order to comply with the Agricultural District Law. The filing of an NOI is not required for this project pursuant to Agriculture and Markets Law Section 305(4).

In closing, all proposed construction activities in agricultural areas should be consistent with the Department Guidelines to prevent damage to agricultural resources.

Sincerely,



Matthew J. Brower
Agricultural Resource Specialist

cc: John S. Harris, Esq., Brown & Weinraub, PLLC
Honorable Jeffery C. Cohen, Acting Secretary, NYS Board on Electric Generation Siting
and the Environment