



December 14, 2009

Secretary Ian A. Bowles
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office
Aisling Eglinton, EOEEA # 13143
100 Cambridge Street, Suite 900
Boston MA 02114

Re: **EOEEA #13143, Hoosac Wind Project, Florida and Monroe**

Dear Secretary Bowles:

On behalf of Mass Audubon, I submit the following comments on the Notice of Project Change (NPC) for this project. Mass Audubon is very concerned about the impacts of climate change on the environment in Massachusetts and throughout the world. To combat the threat of climate change, we believe that increases in energy conservation and efficiency are a first priority and that clean energy capacity needs to grow quickly in an environmentally protective manner. Of all the renewable energy technologies available today, wind energy is the fastest growing, most successful, and most readily available. Our review standard for proposed individual wind energy projects is that they should be sited in a manner that avoids areas of high sensitivity and pose no ecologically significant threat to living resources of the surrounding area. This does not mean zero impact on those resources as we recognize that the production of energy always entails some level of environmental impact. As such, we encourage responsibly sited wind as a clean and renewable energy resource, set in the context of protecting wildlife and the diverse values of public conservation lands.

Mass Audubon recommends that the Massachusetts Environmental Policy Act (MEPA) Certificate on the NPC address the following items:

- Compliance with MEPA regulatory requirement for preparation of an Environmental Impact Report (EIR) for any project involving more than 50 acres of land alteration (301 CMR 11.03(1));
- Clarification of the location of Article 97 land impacts and proposed mitigation, including whether or not the project will impact the large forest reserve at Mohawk/Monroe/Savoy State Forests;
- Clarification of the wetland impacts of the project, including plans and narrative summary of all stream crossings and banks that will be shaded by the proposed road crossings and culverts; and
- Protocols for post-construction avian and bat monitoring, including how and when the protocols will be developed, whether the information will be shared with state wildlife officials and the public, and what the available range of mitigation is in the event unacceptable impacts are documented.

Pre- and post-construction studies including documentation of expected and actual effects on avian and bat species is important for wind farms on forested ridges in New England, to build on the limited existing body of scientific knowledge and to ensure that cumulative impacts of inland wind development do not have unacceptable impacts on these species. The project proponent, Iberdrola Renewables, has a corporate policy to participate in scientific studies and to document mortalities and injuries to birds and bats, which is laudable although somewhat nonspecific regarding methods and public sharing of data. Mass Audubon is interested in reviewing and commenting on the draft post-construction monitoring protocols.

Mandatory EIR Threshold Exceeded

The Hoosac Wind Project involves construction of twenty 1.5 MW commercial scale wind turbines and associated infrastructure. The project site is on private land. The NPC indicates that the project will involve alteration of approximately 72 acres of land. This exceeds the threshold under the Massachusetts Environmental Policy Act (MEPA) regulations at 301 CMR 11.03 (1) mandating the preparation of a full Environmental Impact Report (EIR). When the Environmental Notification Form (ENF) was filed in 2003, several commenters expressed concern that the estimate of the project footprint was incomplete, and that the project was likely to exceed the 50 acre threshold under which preparation of an EIR is required. This has now been shown to be the case. However, the NPC does not address how the MEPA requirement will be addressed. It must not simply be ignored, as this would set a bad precedent whereby any proponent could underestimate their project's impact and thereby avoid a mandatory EIR requirement. Procedural options are available to the proponent. For example, it could have requested that this NPC be treated as an Expanded ENF, then submit a Single EIR to address any remaining issues such as clarification of Article 97 impacts and mitigation, wetlands impacts, and protocols for post-construction monitoring. We request that the MEPA Certificate on the NPC clarify how the mandatory EIR threshold will be addressed.

Article 97 Lands

The NPC indicates that the tie-in to the electrical grid will impact 8,000 sf of Monroe State Forest, requiring approval by the legislature under Article 97 of the State Constitution. It is difficult to determine from the materials in the NPC whether or not the removal of vegetation for this electrical connection will impact the Mohawk/Monroe/Savoy Large Forest Reserve designated in 2006 by the Department of Conservation and Recreation (DCR). Forest cutting is prohibited in these large forest reserves in order to maintain large blocks of undisturbed interior forest habitat. We request that additional information be submitted for public review to clarify impacts to Article 97 lands and proposed mitigation.

Wetlands

This project has been the subject of a lengthy wetlands permitting appeal concerning the proposed construction of access roads involving 12 new stream crossings. This case has been appealed to the Supreme Judicial Court (SJC), where a hearing has been held and a decision is pending. A key issue is whether or not the placement of open-bottom culverts over streams alters the stream banks. The definition of "alter" in the Wetlands Protection Act regulations is broad and includes destruction of vegetation or alteration of the physical characteristics of wetland resources. Given that a stream bank that is covered and shaded by a culvert can never grow vegetation or provide other physical habitat characteristics typical of a natural stream bank, it seems clear that placement of a culvert over a stream bank will alter it. The proponent has taken a different view, and the SJC will ultimately decide. The outcome of this case will set an important precedent affecting streams statewide in relation to all types of stream crossing projects. Mass Audubon agrees that open bottom culverts are the preferred method of crossing streams, but is concerned that if the proponent's position on this is upheld then the wildlife habitat evaluation thresholds will never be triggered for stream crossings using such culverts. This may lead to road crossings being placed in less than ideal locations.

If the SJC finds in favor of the appellants, then an EIR should be required to review the wetland impacts and ensure that they are avoided, minimized, and mitigated to the fullest extent feasible. In addition, we note that if an EIR had been required early on for this project, the wetland impacts would have been more fully disclosed through the MEPA process. This might well have led to quicker resolution of these issues than the lengthy legal appeals that ensued. Although it is hard to know for certain what the outcome would have been if an EIR had been required on the ENF, comprehensive review of the projects through MEPA provides a means of fully disclosing and addressing environmental impacts and may help minimize disputes and appeals.

Avian and Bat Monitoring

There are no standards or requirements for pre- and post-construction avian and bat monitoring at wind farms in Massachusetts, except to the extent such monitoring may be required by federal or state wildlife agencies in order to protect rare or endangered species. Mass Audubon supports the development of standards for avian and bat monitoring, and the compilation of results of such studies by state and federal wildlife agencies. The compiled results should be made public and utilized in guiding future projects in a manner that avoids and minimizes impacts to bats and birds as much as possible.

The project proponent has conducted pre-construction monitoring studies of raptors, breeding birds, and bats. While not comprehensive, these studies do provide some information that was gathered voluntarily and shared with the public. Based on the studies to date, it remains uncertain whether or not state or federally listed rare species of birds breed on the site or if listed species of bats forage in the vicinity of the proposed turbines. The raptor studies identified some individuals of state and or federally-listed raptors passing through the site, including bald eagles, peregrine falcons, northern harriers, and sharp-shinned hawks.

Mass Audubon agrees that post-construction monitoring to estimate avian and bat mortality is needed for this project, and is pleased that the proponent is committed to undertaking such studies. We strongly encourage the project proponent to make the data publicly available to improve risk assessments for future wind projects. The U.S. Fish and Wildlife Service (USFWS) is close to completing federal wind turbine siting guidelines (drafts are publicly available). Post-construction methods for this project should be consistent with these proposed guidelines. The specific protocols for post-construction monitoring should provide for rigorous estimates of bias due to searcher efficiency and scavenger removal. Frequency of searching should match the species of concern, e.g., more frequent searches will be necessary if passerines and bats are the primary species of interest. Multiple years of monitoring will be necessary as there are few sites with comparable data from the region. Mass Audubon is interested in and willing to comment on the proposed post-construction monitoring protocols.

Thank you for your consideration.

Sincerely,



E. Heidi Ricci
Senior Policy Analyst

cc: Nicole Stanford, Stantec Consulting Services, Inc.
Tom French, MassWildlife