

TOWN OF CLINTON  
TOWN OF ELLENBURG

**JOINT STATEMENT OF FINDINGS AND DECISION**

MARBLE RIVER, LLC

**INTRODUCTION**

The Towns of Clinton, and Ellenburg, Clinton County, New York (herein collectively the “Towns”) have received applications from Marble River, LLC, on behalf of the Marble River Wind Farm (herein collectively “Marble River”) respectively, for the necessary permits and approvals to construct and operate wind energy generating facilities and related electrical collection and road access infrastructure in the Towns (the “ Projects, ” the “Projects,” or the “Project”), as described herein. This document is the Joint Statement of Findings and Decision issued by the two Town Boards of the Towns, pursuant to their individual and collective responsibilities as a joint Lead Agency under the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations at 6 N.Y.C.R.R. § 617.11. It contains each Town’s findings under SEQRA and the findings and determinations required pursuant to the Town’s statutes that are applicable to the Marble River applications. Specifically, the Town Boards have reviewed the environmental implications of the following applications and proposed agreements for each Town:

Town of Clinton

1. Wind energy permits,
2. Host Community Agreement between the Town and Marble River which includes the following agreements,

- Road Reconstruction Agreement between the Town and Marble River-  
Construction-Period

- Inspection and Environmental Monitoring Agreement between the Town  
and Marble River,

- Marble River Decommissioning Plan, and

- Road Use Licensing Agreement between the Town and Marble River.

3. Height Variances

Town of Ellenburg

1. Host Community Agreement between the Town and Marble River which includes the following;

- Road Reconstruction Agreement between the Town and Marble River

- Construction-Period Inspection and Environmental Monitoring  
Agreement between the Town and Marble River,

- Marble River Decommissioning Plan,

- Road Use Licensing Agreement between the Town and Marble River

2. Special Use Permits

The SEQRA Process

This document represents the conclusion of the environmental review of the proposed Marble River Project in the two Towns. The Towns have acted as joint Lead Agencies in evaluating the environmental, economic, and social implications of the Project. The Lead Agency is the governmental body “principally responsible for undertaking, funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required.”<sup>1</sup> For their individual Towns, each Town Board declared the Project to be a Type I action and acted as Lead Agency, but the Towns also believed from the beginning of the process that the impacts of the Project had to be considered on a region-wide basis. This was especially important because Noble Environmental Power had proposed and permitted three wind parks in the Town’s of Altona, Ellenburg and Clinton, respectively. Accordingly the cumulative impact assessment prepared by the Towns’ experts includes these three Noble projects along with the proposed Marble River project.<sup>2</sup> While each Town has completed its own obligations under SEQRA (i.e., establishment of Lead Agency status, acceptance of a DEIS, a Supplemental DEIS and an FEIS, etc.), by working together - as opposed to acting independently as a single Lead Agency - the Towns prevented any segmentation of the review

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<sup>1</sup> 6 N.Y.C.R.R. § 617.2(u).

<sup>2</sup> The Cumulative Impact assessment contained in the FEIS also considered a proposed wind farm in Beekmantown, N.Y.

(since every aspect of the Marble River Project was evaluated) and also assured that the separate values and concern of each community were given full weight.

Under the SEQRA regulations, this Findings Statement must:

(1) consider the relevant environmental impacts, facts and conclusions disclosed in the final EIS;

(2) weigh and balance relevant environmental impacts with social, economic and other considerations;

(3) provide a rationale basis for each Town's decision;

(4) certify that the requirements of SEQRA have been met;

(5) certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.<sup>3</sup>

## **PROJECT DESCRIPTION**

The Project involves the installation of 109 wind turbines in the two Towns (88 will be located in the Town of Clinton and 21 will be located in the Town of Ellenburg) together with related infrastructure such as interconnection lines, access roads, laydown areas, an O&M

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<sup>3</sup> 6 N.Y.C.R.R. § 617.11(d).

building and a substation connected to the northern NYPA 230 kV Willis-Plattsburgh transmission line.

### Individual Turbine Sites

The turbines selected for the Project are Suzlon S88 wind turbine generators. The turbine is a three-bladed, upwind, horizontal-axis wind turbine with a rotor diameter of approximately 288 feet. The nacelle is located at the top of each tower and contains the electrical generating equipment. The turbine rotor and the nacelle are mounted on top of a tubular tower giving a rotor hub height of 265 feet. The maximum height for the turbine is 406 feet when a rotor blade is at the top of its rotation.<sup>4</sup> Each wind turbine will be installed on a round, slightly exposed, steel-reinforced, concrete foundation (approximately 50 feet in diameter and approximately 15 feet deep).

Installation of each turbine will start with clearing a 250-foot circular area which may be graded to a slope of 5% or less. A gravel crane pad approximately 100 by 60 feet will be constructed with a slope of 1% or less in all directions. After installation is completed, all disturbed areas at the turbine site will be restored, , with the exception of the crane pad gravel apron around the turbine, pad mount transformer, and any required electrical equipment, which will remain in place for future maintenance. Reclamation in designated agricultural lands, will be completed in accordance with New York State Department of Agriculture and Markets guidelines (“Ag & Mkts Guidelines”). With the exception of the crane pads, excess gravel will

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<sup>4</sup> The Town of Ellenburg limit the total height of wind energy facilities to 440 feet, and the Town of Clinton limits the total height to 400 feet. Height variances will be required in the Town of Clinton.

be removed from the site. All foundations and underground infrastructure will be in place for the life of the Project.

Preparing the sites for installation of the foundations and turbines will require stripping of topsoil, excavating surface materials to groundwater levels, followed by continued excavation with dewatering as recommended in the geotechnical studies performed as part of the DEIS/FEIS review. Dewatering is necessary to maintain the strength of the subsurface load-bearing materials designed depths. In the event that ground water is located, approved dewatering techniques will be employed. The management of groundwater extracted for dewatering will be in accordance with the Storm Water Pollution Prevention Plan (“SWPPP”) that has been filed with the New York State Department of Environmental Conservation (“DEC”) and is attached hereto.

. Limited blasting is expected to be required in certain locations and, where necessary, will be conducted in accordance with the Blasting Plan contained in the Marble River DEIS. In most cases an excavator with a large rock bucket would be used, to remove bedrock or in locations where the bedrock is more competent an excavator equipped with a hydraulic/pneumatic breaker or rock grinder may be used. Rock grinders will not used before 7 a.m. nor after 7 p.m. to limit noise impacts from construction.

#### Delivery and Storage Areas (On-Site and Off-Site)

This project has identified an appropriate delivery and staging area for the project. As outlined in the FEIS, Marble River has identified one parking and storage area (The Laydown Yard) within the Project area Impacts to this area were evaluated in the environmental review. These areas consists primarily of a large area located off of Route 189 in the Town of Clinton

that has been previously used for equipment storage and/or parking in the past, resulting in virtually no new impacts. The site is located away from wetlands, and was selected after proper archeological studies confirmed that the site did not contain artifacts or the existence of valuable cultural resources. Use of this site will be in full compliance with the Project's SWPPP, and in accordance with all DEC and Environmental Protection Agency ("EPA") regulations.

During the Project construction phase, the large turbine components (i.e., tower sections, nacelle, and rotor blades) will be delivered to the specific turbine site by truck.<sup>5</sup> Each of the individual sites will serve as the staging area for the erection of that specific turbine. Use of land for staging areas in active agricultural areas will be minimized in accordance the Ag. & Mkts Guidelines, to avoid unnecessary compaction of the soil and maximize preservation of agricultural capacity. While temporary parking will be required at each turbine location as the construction progresses, the majority of construction crews will be bused to the work sites; others will park off the public roads on the Project's previously disturbed and designated areas such as access roads and turbine sites, as required. Materials such as cable reels will be staged at the appropriate locations within the project area, and then transported to the designated sites as they are needed for construction.

### Access Roads

Access roads, both temporary roads needed for construction and permanent routes for maintenance, present an opportunity for adverse impacts if not properly sited and installed.

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<sup>5</sup> The large delivery trucks, cranes, and heavy construction equipment present issues related to traffic that are specifically discussed in the Traffic Impacts section of this Statement.

They also present a potential cost to the communities if use of public roads by heavy vehicles significantly diminishes the quality of the roadways.

Private access roads will have a gravel base designed to meet the load-bearing requirements of trucks transporting concrete, gravel, and turbine components to the wind turbine sites, over the life of the Project. To assure the construction of safe roads, the access roads will be constructed utilizing an approved engineered material. The gravel road will be constructed by stripping unsuitable material and compacting the sub-grade. The access road will consist of laying a geofabric and/or geotextile over the sub-grade to provide separation and engineering strength between the subgrade and the gravel base course. Road construction will comply with the SWPPP and Ag & Mkts Guidelines. Culverts will be constructed where needed to maintain hydrology and the culverts will match the existing drainage path as closely as possible. Culverts will consist of a water table elevation below the base minimum of 2 feet of material cover ensure roadbed stability. Roadside ditches will be constructed as dictated by the SWPP to convey stormwater runoff away from the roadways. To prevent access by the general public, construction/access roads will be gated where they intersect public roads and/or at such locations as required to protect landowner interests (e.g., livestock areas, accessible property lines other than at access road entrances, etc.). Road construction will comply with the SWPPP and Ag & Mkts Guidelines.

Whenever feasible, the Marble River and Noble Projects are required to utilize the same access roads to minimize new road construction and thereby limit short-term construction impacts, as well as loss of vegetation and agricultural land.

Some negative impacts will occur as a result of the chosen routes, but the Towns believe the balanced approach used in road siting best meets the mandates of SEQRA. Specifically, there will be impacts on a very small number of wetlands, relative to the aggregate acreage of wetlands located within the project area, in the current proposed layout resulting from stream crossings and unavoidable wetland areas being crossed by roads (and/or collection lines, see below). But, the Towns find, if the Project layout were modified so as to eliminate all impacts on wetlands, other impacts would be unacceptably increased. This occurs because rerouting the access roads would mean significant additional lengths of roads being constructed. In addition to the increased short-term construction impacts (primarily noise and dust), for every foot of road increased, there would be an increase of up to 60 square feet of disturbance of forest, farmland, and/or wildlife habitat. Each additional mile of road would add approximately 7 acres of soil and vegetation disturbance. The proposed layout avoids impacts on wetlands to the maximum extent possible without a major increase in the length of the roads.

In addition to the increased length of roads within the Project Area, layout changes to further reduce wetlands impacts would require the construction of additional entrances at existing public roads to access some of the turbines that would be inaccessible due to small wetlands or streams. This would create additional visual impacts inconsistent with the rural character of the area due to the numerous entrance roads cutting into forests and open spaces, and would create additional traffic impacts in such areas. By contrast, these impacts are limited because the proposed design has limited and consolidated the number of entryways by including multiple turbines on each access road (as many as 13 turbines along one access road).

## Electrical Collection Systems

Wind energy generating facilities are unique in the field of power generation because the turbines are located in a vast area some distance from the electrical grid interconnect point. Like access roads, this presents potential environmental impacts through the need for an electrical collection system connecting the widely dispersed turbines with the electrical grid interconnection point.

The Towns have acted to minimize the impacts from the construction of the new system. Each Town's Local Law regulating wind energy facilities requires the placement of new lines underground to the maximum extent possible. As a result, more than 80% of the electrical interconnect system will be buried, with overhead lines used to span wetlands and streams and to avoid installing multiple underground lines in environmentally sensitive locations. By contrast, a totally underground collection system would significantly increase the number of lines needed (due to the lower thermal limits of underground collection lines) and increase the impacts on vegetation, soils, and wetlands. The Towns find that use of a limited number of overhead lines minimizes environmental impacts to the maximum extent practicable by balancing visual impacts from the lines against benefits of their use to avoid impacts to soils, wetlands and other water resources.

While overhead lines have been used in order to reduce other impacts (e.g. reduced impacts on soil and water resources), they have the potential to cause adverse visual impacts. However, in order to avoid or minimize these potential adverse impacts the Applicant placed the overhead line Right of Way out of immediate view from public corridors and community resources. This design significantly minimizes any potential adverse visual impact

from the overhead line. Additionally, the VIA (See Appendix K of the SDEIS for a visual impact assessment of the current Marble River overhead route) found that the overhead line would have a low to moderate visual impact due to the relatively modest height of the poles when compared to forest vegetation, and roadside utility lines. Also, the overhead lines have been routed along field edges and hedgerows where applicable to minimize additional impacts on agricultural land and farming operations and minimize visual intrusion. The Towns will enter into road use licensing agreements with Marble River to allow maximum use of previously disturbed roadways instead of undisturbed land for the collection systems.

### Substations

Electrical power generated by the wind turbines will be collected by a network of underground and overhead cables terminating at the Project substation. Construction of the Project will require installation of a single substation located within the Town of Clinton

The Marble River substation would sit on a 10.0-acre parcel in the Town of Clinton, and will tie into the existing 230 kilovolt (kV) New York Power Authority (“NYPA”) Plattsburgh – Willis transmission line, thereby providing access to the NYISO electric transmission grid. The new substation will be located on the east side of Patnode Road immediately north of the existing NYPA 230 kV transmission ROW. The review of the Marble River Project has included the substation and related interconnection facilities, whose main function is to step up the voltage from the collection lines from 34.5 kV to the NYPA transmission voltage of 230 kV. The interconnection facilities consist of a combined collector and step-up substation and a POI switchyard. These components function to step up the voltage, switch and meter the electricity delivered, and to protect the system (the wind turbines, the collection lines, and the transmission

grid) so that the electricity can be reliably interconnected to the Willis-Plattsburg 230 kV transmission line owned by the NYPA. The main elements of the collector and step-up substation are a control house, a power transformer, outdoor medium-voltage and high-voltage breakers, relaying and protection equipment, high-voltage bus work, steel support structures, overhead lightning suppression conductors, and a sub-surface grounding grid.

The main elements of the POI switchyard are a control house, utility-quality metering, outdoor high-voltage breakers, relaying equipment, 230 kV bus work, dead-end steel support structures, overhead lightning suppression conductors, and a sub-surface grounding grid. All structural elements will be installed on concrete foundations. Each station consists of a graveled footprint area, a chain link perimeter fence, and an outdoor lighting system. FEIS, Appendix A provides a schematic depicting the proposed Project substation facility layout. The design of the collector and step-up substation and the POI switchyard and attachment facilities to the 230 kV line have been designed pursuant to the facility study conducted by the NYPA and the New York Independent System Operator (NYISO) in accordance with the Federal Energy Regulatory Authority Tariff. The substation, indeed the entire electrical system, is designed and will be constructed in accordance with the Guidelines of the National Electric Code (NEC), the National Fire Protection Agency (NFPA), and the host utility (NYPA) requirements. As part of the proposed Marble River Quality Assurance Program, in addition to NYPA inspections, building plans for the substation will be examined by technical consultants retained by the Town.

## **ANALYSIS OF POTENTIAL IMPACTS AND MITIGATION MEASURES**

### **Community Character**

#### **Clinton**

Within the Town of Clinton, Marble River proposes the installation and operation of 88 wind turbines on an approximate cumulative area of 145 acres within an approximately 16,896-acre Project area. Marble River impacts will also include construction and use of approximately 42.3 miles of access roads. Current land uses in and around the Project Area are predominately agricultural and forested land plus a large portion of wetland habitat which has been disturbed by past agricultural and silvicultural practices. Current agricultural use is largely limited to hay production and pasture, although some row crops (e.g., corn) are grown throughout the area. Forested land within the Project Area varies from recently clear-cut tree stands to late successional forests, and silviculture is both a historic and current use throughout the Project Area.

As indicated in the DEIS/FEIS the Project will be consistent with and supports the rural, open-space, farm-oriented uses in the community that surround the Project site. With a few exceptions, the landscape surrounding this Project will retain its open space character and overall spatial organization once the Project is in place. Although there are some intrusions to the vertical and overhead planes in the landscape within the Project site, the surrounding landscape retains much of its integrity because the open sky, topography, and existing patterns of land use will remain dominant. However, the Project will introduce new elements (i.e., wind turbines) into the existing landscape, which could be considered a change. It is worth noting however, that the introduction of these new elements will, in fact, help maintain the existing community

character by helping area farms remain in business, and slowing the trend of farm abandonment and conversion to successional vegetation and residential development

Moreover by enacting provisions in its zoning ordinances to permit wind turbines to be located in the community, the Town of Clinton has established as a legislative policy that such structures are compatible with the character of the community. The inclusion of a use in a zoning law as a permitted use is tantamount to a legislative finding that the permitted use is in harmony with a Town's general zoning plan and will not adversely affect the community. (*See Retail Property Trust v Board of Zoning Appeals of the Town of Hempstead*, 98 NY2d 190 [2002]; *Twin Party Recycling v Yevoli*, 90 NY2d 1000 [1997]; *Wegmans Enterprises, Inc. v Lansing*, 72 NY2d 1000 [1988]; *Robert Lee Realty Co. v Village of Spring Valley*, 61 NY2d 892 [1984]; *North Shore Steak House, Inc. v Board of Appeals of the Village of Thomaston*, 30 NY2d 238 [1972]; and *Hudson Resources, Inc. v Venditto*, 282 AD2d 676 [2d Dept 2001].)

Accordingly, based on the above and the comprehensive analysis in the DEIS/FEIS, the Town Boards find that the proposed Project is consistent with and supports the community character and land uses, particularly agriculture in and around the Project area within the Town of Clinton.

## **Ellenburg**

The Marble River Project proposes 21 wind turbines in an approximately 1,624-acre area, along with the creation and use of approximately 6.4 miles of access roads. The 10.8 miles of electrical collection system will, where practicable, be buried.

Within the Ellenburg site, actual land impacts cumulatively total approximately 22 acres. The land uses within the Project Area are a mixture of agricultural and forested land. The Project Area also includes wetlands mapped and delineated according to DEC and NWI wetland mapping, and field surveys

As indicated in the DEIS/FEIS the Project will be consistent with and supports the rural, open-space, farm-oriented uses in the community that surround the Project site. With a few exceptions, the landscape surrounding this Project will retain its open space character and overall spatial organization once the Project is in place. Although there are some intrusions to the vertical and overhead planes in the landscape within the Project site, the surrounding landscape retains much of its integrity because the open sky, topography, and existing patterns of land use will remain dominant. However, the Project will introduce new elements (i.e., wind turbines) into the existing landscape, which could be considered a change. It is worth noting however, that the introduction of these new elements will, in fact, help maintain the existing community character by helping area farms remain in business, and slowing the trend of farm abandonment and conversion to successional vegetation and residential development.

Moreover by enacting provisions in its zoning ordinances to permit wind turbines to be located in the community, the Town of Ellenburg has established as a legislative policy that such structures are compatible with the character of the community. The inclusion of a use in a

zoning law as a permitted use is tantamount to a legislative finding that the permitted use is in harmony with a Town's general zoning plan and will not adversely affect the community. (*See Retail Property Trust v Board of Zoning Appeals of the Town of Hempstead*, 98 NY2d 190 [2002]; *Twin Party Recycling v Yevoli*, 90 NY2d 1000 [1997]; *Wegmans Enterprises, Inc. v Lansing*, 72 NY2d 1000 [1988]; *Robert Lee Realty Co. v Village of Spring Valley*, 61 NY2d 892 [1984]; *North Shore Steak House, Inc. v Board of Appeals of the Village of Thomaston*, 30 NY2d 238 [1972]; and *Hudson Resources, Inc. v Venditto*, 282 AD2d 676 [2d Dept 2001].)

Accordingly, based on the above and the comprehensive analysis in the DEIS/FEIS, the Town Boards find that the proposed Project is consistent with and supports the community character and land uses, particularly agriculture in and around the Project area within the Town of Ellenburg.

### Agricultural Uses

As noted above, significant portions of the lands in the Project are active farms and as a general matter the proposed Project is compatible with and supports Agricultural Uses.. Under Article 25-AA of New York State's Agriculture and Markets Law local agricultural districts have been established to protect and encourage the continued use of existing farmland. The Marble River Project lies within two agricultural districts: agricultural district CLI03 and CLI10 in the towns of Altona, Chazy, Clinton, Ellenburg, and Mooers. Protection of agricultural land is thus key issue for the Towns.

The proposed Project was selected and designed to avoid impacts to agricultural lands to the maximum extent practicable. Avoidance of potential impacts started with site Selection. The selection of facility sites, including wind turbine locations, access roads,

substations, and electrical collection systems, was undertaken in consultation with Matthew J. Brower, Agricultural Resource Specialist of the New York State Department of Agriculture and Markets. With his guidance, specific facility sites on active farms were placed on the edge of agricultural fields to the greatest extent possible (without increasing impacts on wetlands). This minimized the loss of agricultural land and minimized the use of wooded areas. To the extent practical, roads and interconnects were also located on the edge of agricultural land and sited to avoid crossing drain tiles.

In accordance with Ag & Mkts Guidelines, mitigation measures will be applied to all disturbed areas during and after construction to prevent soil erosion and sedimentation. Such measures include (See Appendix D of the DEIS for complete Ag & Markets Guidelines);

- Utilizing excavated subsoil and rock whenever possible as backfill. If this material is determined to be unsuitable as backfill, select granular fill (e.g. bank run gravel) will be utilized in its place
- Stripped topsoil will be segregated from subsoil and stockpiled in temporary storage areas on the property from which it was removed.
- Pumping will be done in a manner that minimizes adverse effects on agricultural crops and operations. Surface water ponding and soil erosion follow the guidelines specified in the Marble River SWPP

Other potential impacts that may occur include changes to the natural drainage patterns of agricultural lands, and these will be mitigated by constructing drainage swales and, where necessary, culverts maintain natural drainage patterns. Other potential impacts on

agricultural land from construction activities include the direct loss of any crops and pastureland grown at the time of construction and the long-term loss of agricultural productivity. The Towns note that any crops and pastures that lie within the built portions of the Project Site will be lost, and this loss has not been mitigated, beyond the site selection criteria noted above which has been utilized to minimize such losses. However as noted above the Project site selection and design has limited these impacts to the maximum extent practicable. The amount of prime farmland that will be permanently impacted by conversion to nonagricultural uses will not significantly affect soil resources within the Project areas, in fact the acreage of these soils permanently converted to nonagricultural uses by the Project is significantly less than 1% of those soils in Clinton County.

The Towns are also concerned that soil fertility may decrease if mixing of soil layers occurs. To minimize this impact, topsoil will be stripped and will be separately maintained in work areas. Soil compaction within agricultural land may also affect long-term farmland productivity. Therefore following construction the disturbed areas will be decompacted using a deep-shank, Paraplow, Paratill, ripper or other specified equipment will be used to break up soil down to the depth of actual compaction. These areas will be monitored to ensure successful restoration.

Other soil impacts that can affect agricultural productivity include the introduction of rocks and weeds into the soil, the latter of which compete with the desired crops for soil moisture and fertility, resulting in lower crop yields. The introduction of any rocks or rock material is expected to be minimal since the construction corridor is not large, however if rock is introduced into topsoil in agricultural areas, Marble River will screen the soil to remove the rocks prior to back filling. In order to avoid adverse impacts of soil, including loss of organic

matter, topsoil-subsoil mixing, deterioration of soil structure, and soil settling, special construction techniques will be used including; a) Segregating stripped topsoil from subsoil; b) stockpiling topsoil in temporary storage areas on the property from which it was removed; c) avoiding stockpiling excavated subsoil and rock on active agricultural land; d) removing excess subsoil or rock, that is not suitable as backfill, from the site. These impacts will be confined to the Project Site and, upon completion, restoration will be performed on the Project Site to offset any long-term effects, in accordance with the Ag & Mkts guidelines. Every precaution will be taken to minimize impact on cropland soils. Protective measures that will be employed include ensuring that topsoil-subsoil mixing does not occur and that compaction and other construction related results are avoided or mitigated. Topsoil will be removed first and stockpiled to ensure that it is separated from construction activities. The subsoil layer also will be stored separately from the topsoil and away from construction activities. If the excavated materials lack backfill requirements, Marble River will ensure that adjacent agricultural land is not used to replace the backfill. If imported soils are needed for this process, they will be similar in texture to the soils already present. Based on the above and the mitigation and avoidance measures identified in the DEIS/FEIS, Ag&Mkts guidelines and the SWPPP as proposed, the Project will not have any significant adverse impacts on agricultural uses and will otherwise avoid impacts to the maximum extent practicable.

The Town Boards note that several general comments about the Project have called for significantly greater setbacks from off-site residences and property lines. The Towns note that these comments were not supported by any evidence that the setbacks in the Local Laws are insufficient. The Towns note that in the case of agricultural lands, greater setbacks

would mean significantly greater impacts on prime farmland due to the need for longer access roads and electrical collection systems. The Towns find that the setbacks in the Local Laws properly balance the need to protect farm property while minimizing noise and visual impacts.

### Construction Impacts on Land

Review of the DEIS and FEIS shows that, provided appropriate control measures are in place, construction activity at the Project site should have minimal erosion and sedimentation impacts. However, it is important that specific control and mitigation measures are in place to protect against erosion and sedimentation within the Project Site.

Investigation shows that ten soil types located within the Project Site have been classified as having severe erosion potential. The Towns also note that short-term increases in erosion can occur as a result of the removal of vegetation during clearing and grading activities, and the subsequent exposure of topsoil to precipitation and high winds. In addition, in areas where vegetation is slow to become re-established, increased erosion can occur. Increased erosion of soils is of special concern adjacent to water bodies, where it can result in increased sedimentation, and the Towns note there are numerous water bodies in the Towns. There is therefore a potential for erosion to occur on these soils, as well as on sloped areas containing these soils during construction, and erosion control measures must be implemented to avoid or minimize potential impacts to the maximum extent practicable and to comply with the appropriate regulations. To this end an erosion control, re-vegetation, and maintenance plan has been developed and will be implemented as part of the SWPPP (attached hereto). The FEIS and the SWPPP detail a number of control and mitigation measures that will be implemented at the site including, but not limited to, the following:

- The use of check dams constructed across drainage ways to reduce erosion by restricting the flow velocity in the channel and allowing sediment to drop out.
- The use of temporary cofferdams (sand bags) and pumping equipment to divert flows from upland areas
- The installation of silt fence in accordance with procedures outlined in *New York State Standards and Specifications for Erosion and Sediment Control*, (August, 2005)
- The use of temporary swales/diversions designed to divert flows from upland areas around construction areas thereby permitting the work to be performed in the dry.

Additionally, temporary erosion control features such as interceptor diversions and sediment filter devices (e.g., hay bales and silt fences), will be installed prior to initial ground disturbance. As required, mulch or erosion control fabrics (e.g., jute netting) may be used on critical slopes or areas to control erosion. Temporary erosion control devices will be inspected on a regular basis and within 24 hrs of a .5-inch rain event to ensure proper functioning. During construction, Marble River and the Towns will monitor the effectiveness of temporary erosion control devices, as well as the effectiveness of re-vegetation and permanent erosion control devices. Temporary erosion control structures will be maintained until the affected areas are successfully re-vegetated with native species. Post-construction monitoring of restored areas will also be completed to ensure native species re-populate the area, and that

proliferation of invasive species is minimized. Following successful re-vegetation of construction areas, temporary erosion control devices will be removed.

If areas of sub-surface drainage tile are encountered during construction, they will be completely restored. In addition, where Project roads are constructed or existing roads are improved, design of these roads will include drainage systems that, based on the Town's review, indicate that drainage will actually improve in many of the existing areas where high erosion from runoff exists.

Based on the above and the erosion/sedimentation control measures identified in the FEIS, Ag&Mkts guidelines and the SWPPP as proposed, the Project will not have any significant adverse impacts pertaining to erosion and sedimentation and will otherwise avoid impacts in this regard to the maximum extent practicable.

### Property Values

In their local laws, the Towns have each required an evaluation of potential impacts on local property values from the construction/operation of the wind turbines and related facilities. Accordingly, property value studies were prepared for each Town by a recognized expert in the field of property valuation. The studies found, based on real estate sales near other wind farms, "no evidence which would indicate these facilities have a detrimental effect on real property values." In fact, the studies found, "that prices continued to increase in value within the respective sub markets after construction and the on going operation of the facility."

The Towns also reviewed an independent study by Bard Center for Environmental Policy at Bard College,<sup>6</sup> of the Fenner Wind Project in Madison County, found “an absence of measurable effects of windfarm visibility on property transaction values. This result holds even when concentrating on homes within a mile of the facility and those that sold immediately following the announcement and construction of the windfarm in 2001. These results dispel the proposition that effects, either positive or negative, are universal.”

The Town Boards received several unsubstantiated comments speculating that the Project would negative impacts on property values. However none of these comments contained any documentation, studies, expert opinion or other evidence, to support these assertions. Accordingly, based on the un-refuted studies and expert opinion in the record, the Towns find that the Project will not have an adverse impact on property values in the community..

#### Cultural and Historical Resources and Impacts

A comprehensive investigation of cultural resources was conducted in order to identify cultural resources potentially affected by the Marble River Project, and is contained in appendices to the DEIS and FEIS. The focus of the investigation was to identify archeological resources, historic resources, historic structures, and structures that might qualify as historic. There was relatively little existing data or other information concerning architectural resources which might be eligible for listing on the State or National Historic Registers exists. To fill this gap, Marble River’s consultants compiled an extensive photographic inventory of structures fifty years or older in the zone of visual influence, defined, consistent with State and Federal

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<sup>6</sup> Ben Hoen, *Impacts of Windmill Visibility on Property Values in Madison County, New York* (2006)

guidelines, for these purposes as within a 5 mile radius from the perimeter locations of the turbines in the Project. Additional architectural surveys and evaluations were undertaken at the request of the State Historic Preservation Office (SHPO), and these supplementary reports are also contained in the SDEIS and FEIS.

### Archeological Resources

The potential to disturb archeological resources was investigated for each of the Project components that might result in physical disturbance in native soils. These included the turbine sites, access roads, electrical corridors, substation locations, lay down areas and wetland mitigation areas. This study was conducted in consultation with the SHPO and pursuant to SHPO guidelines. This study included a literature evaluation Phase 1A report (included in the Marble River DEIS) and a comprehensive in-field investigation Phase 1B report (included in the Marble River SDEIS). These reports, which were reviewed by the SHPO, conclude that the Project will not have any impacts on archeological resources. There have been no credible objections (i.e. based on expert analysis or other evidence) to these reports or the conclusions therein. Accordingly, consistent with the analysis and conditions in the archeological Phase 1A and Phase 1B reports the Towns find that the Project will not have significant adverse impacts on archeological resources and will otherwise avoid impacts to such resources.

### Architectural Resources

Because of the height of the wind turbines, their broad spatial distribution across the Towns, and the flat topography existing in the Towns and surrounding areas, there is the potential that the wind turbines will be visible from many locations within each Town. As noted above after consultation with the SHPO, an extensive inventory of buildings/structures fifty

years or older was undertaken in the Area of Potential Effect (APE) which for this Project, consistent with State and Federal guidelines, is defined as the area within a 5-mile radius from the perimeter edge of the Project site. Because the analysis of the APE is topography based and does not include vegetative cover, it likely overestimated the number of visible turbines and the area from which they can be seen.

Initially the Towns note that no historic structures or buildings will be demolished or physically altered in connection with the construction of the Project. Access to surrounding historical recreational and commercial land uses will not be impeded by the Project. Nevertheless, a large number of turbines will likely be visible from many properties or historic districts found to be eligible for listing on the State/ National Register of Historic Places.

### **Clinton**

As indicated above, subsequent to the DEIS, a Phase 1B archeological survey was conducted to determine the presence or absence of previously unrecorded archeological deposits within the Project site of physical disturbance. In addition, a historic architectural resources survey was conducted to identify and document historically significant structures that may be located in the Project APE.

No Native American prehistoric sites were identified within the Town of Clinton during the Phase 1B archeological survey. However, the Phase 1B archeological survey resulted in the identification of 11 historic archeological sites located within the Town of Clinton. Of these, three sites have the potential to be impacted by Project components. These sites include:

1. The Clinton Mills Site – remains of former residence and mill

2. The former route of the Ogdensburg & Lake Champlain Railroad
3. The Merchia Road Site – remains of abandoned farmstead foundation

The Applicant has relocated Project facilities in the vicinity of the Merchia Road Site and the Clinton Mills site to insure that the documented features at the site are not impacted.

Seventy-three historic properties were identified within the Project's 5-mile APE during the historic architectural resources survey (Appendix J, Historic Architectural Resource Survey Table 2, Figure 1). Of these, 20 properties were within the Town of Clinton.

### **Ellenburg**

No Native American prehistoric sites were identified within the Town of Ellenburg during the Phase 1B archeological survey. However, the Phase 1B archeological survey resulted in the identification of two historic archeological sites within the Town of Ellenburg. These two sites have been designated Patnode Road Site 1 and 2 and represent an abandoned farmstead and cabin, respectively. Neither of these sites will be impacted by Project components.

Seventy-three historic properties were identified within the Project's 5-mile APE during the historic architectural resources survey (Appendix J of the DEIS, Historic Architectural Resource Survey Table 2, Figure 1). Of these, 29 properties were within the Town of Ellenburg.

## Mitigation

The survey technique used to identify structures within a 5-mile radius of the Project may tend to exaggerate the number of properties and the degree that they may be impacted because it ignores the vegetative screening afforded by mature trees, shrubs and plantings, as well as localized topography which may reduce the actual impact of the Project. However, impacts to the viewshed are unavoidable. In this case, there is relatively little opportunity for mitigating the visual impact of the wind towers themselves which is extensively studied in the DEIS, SDEIS and FEIS for the Project and cumulatively for all regional wind projects. (See also, the Visual Impact section of these Findings). For example, removing or relocating some towers, even if feasible without resulting in different impacts, would not have any benefits because there would be still intrusions on the view shed from the Noble and Wind Horse projects. The cultural resource studies contained in the DEIS, SDEIS and FEIS reveal the lack of much prior study of historical structures within each of the two towns and surrounding communities. The historic architectural structural surveys presented in the SDEIS contain a vast amount of valuable information, which if properly assembled and supplemented can become an important cultural resource and educational tool. As a mitigation measure for such unavoidable impacts on potentially historic resources, Marble River has proposed specific measures within the Town's of Ellenburg and Clinton that include the following:

- a. Directly undertake or provide financial support for the restoration/maintenance of local historic cemetery(s).
- b. Conduct Historic Research and prepare an NRHP nomination for the Immaculate Heart of Mary Catholic Church

- c. Provide financial support to the town of Clinton for the long term maintenance and upkeep of the Immaculate Heart of Mary Catholic Church when it ceases to be an active property of the Church. (\$237,600)
- d. Provide additional financial support to the Town of Ellenburg for the currently proposed effort to construct and maintain a public Records and Archives Storage Facility within the Town of Ellenburg (\$56,700)

The proposed measures will be beneficial in restoring and maintaining the historical integrity of existing cultural resources and are appropriate offset mitigation measures, which will minimize the unavoidable visual impacts of the Project on the historic structures to the maximum extent practicable.

Based on the above, the Towns specifically find that the Project will not have significant adverse impacts on historic and cultural resources, or on the public's use of those resources and that the offset mitigation proposed by the Applicants will minimize impacts to the maximum extent practicable.

## Electromagnetic Interference

As noted in the Marble River DEIS wind turbines have the potential to cause interferences such as signal obstruction, attenuation, or other signal alteration to some types of communication systems. Marble River was required, as part of its DEIS, to investigate potential interference with microwave and other communications systems. The Towns worked with other agencies, including the Department of Homeland Security, to identify any impacts.

Two types of transmissions were evaluated. First, those with narrow targeted paths of definable dimensions, and second, those with omni-directional broadcast characteristics. Due to their restricted pathway, the narrow beam signals are more susceptible to interference from an object (e.g., wind turbine blade) placed in its path. This type of signal is present at higher frequencies, namely 940 MHz to 23 GHz.

The Marble River DEIS includes an analysis to evaluate the potential effects of the planned facilities in Clinton County, NY to existing non-federal government microwave systems.<sup>7</sup> The DEIS identified one microwave path that intersects the project area. (see appendix N of the DEIS for visual depiction of the Microwave Path). The analysis assumed a worst-case Fresnel Zone (i.e., maximum width along the entire path) while conducting the microwave path analysis. It was determined that impacts to the microwave path will not occur if all proposed wind turbines are sited a minimum of 128 feet from the centerline of the microwave path. As currently proposed, all of the Project's turbines meet this siting guideline. Therefore, the proposed project will not result in impacts to the existing microwave path. In addition to licensed microwave transmitters, existing transmitters operated by departments of the United States

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<sup>7</sup> Comsearch's reports are located in Appendix N of the Marble River DEIS.

Government are not subject to FCC licensing and, therefore, are not available in public records. Acting through the Department of Commerce National Telecommunications and Information Administration (NTIA), Comsearch advised federal government agencies of Marble River's planned wind turbine development area. This action allows government facilities to respond with any concerns over interference with their non-licensed installations. (The facilities include military and other government-operated radar sites, but not those with the FAA. The FAA conducts its own review of radar obstruction when wind turbines are registered with them in the process of seeking a "Determination of No Hazard.") NTIA's response was that no interference was anticipated. The Federal Communications Commission (FCC) requires that studies be conducted to determine if a proposed development will affect existing AM radio broadcast stations. Specifically, a study is required when the proposed development is located within 1.0 km of a non-directional broadcast station and/or within 3.0 km of a directional broadcast station. As a component of the Microwave Path Analysis, the DEIS also examined this matter (see Appendix N of the DEIS) and determined that none of the Project's wind turbines fall within these distances. Thus, the project will not impact existing AM radio transmissions.

The television analysis report provided detailed information for each of the 40 television stations that occur within 100 miles of the Project. This information included a depiction of the coverage contour for each station. Based upon this data, the analysis determined that the Project falls within the "weak coverage area" for all of the 40 stations. However, because the five primary off-air television stations (Channels, 3, 5, 22, 33, and 57) originate from the same basic direction (southeast of the Project area), the on-site TV analysis indicates that the proposed project could create a signal shadow to the northwest of the turbine locations. Therefore, various impacts to television reception are possible as a result of the Project.

The Towns find, as a result of the specific studies and conclusion included in the DEIS, that no impacts on narrow beam microwave transmissions, AM radio transmissions, or land mobile radio and cellular and/or personal communication systems are reasonably anticipated. While the TV results do indicate the potential for some adverse impact from the operation of the turbines, the town finds that since the turbines are not scheduled to be erected before February 2009, and due to the FCC's mandate to transition all off-air television broadcasts from analog signals to digital signals by February 2009 there will be no actual signal interference since digital signals are not subject to interference from intervening structures (NWCC 2005).

### Traffic

The Towns are fortunate to possess a well-developed system of local and county roads. The nature of the communities in the Project Area is rural/agricultural, and local road traffic is well below capacity. Nevertheless undertaking a large construction project, such as the proposed wind farm will have impacts on traffic and roads.

Most traffic and road impacts will occur in the construction phase. Particular impacts are expected from delivery vehicles for turbine components, materials associated with turbine site construction and assembly, and personal vehicles for workers. Delivery vehicles will range in size from oversized/overweight tractor-trailers (to deliver tower sections, turbine nacelle, rotor blades, and cranes) to smaller vehicles such as dump trucks, concrete trucks, fuel

delivery trucks, mechanics vans, and pickup trucks. Personnel vehicles will consist of automobiles and light trucks.

Small construction vehicles will be used on a regular basis during the construction period to deliver supplies, personnel, and other Project necessities. Suppliers for the Project have not yet been selected but are expected to be local contractors using the most direct route to the Project Site. Small construction vehicles will not have difficulty reaching the Project Site using any local roads while complying with all town, county, and state ordinances. Concrete trucks are expected to be the heaviest of these small construction vehicles, requiring a road capable of safely handling a vehicle with a gross weight of more than 80,000 pounds (40 tons).

The use of public roads for oversize/overweight commercial transportation requires permitting from NYSDOT. Marble River will obtain the necessary permits from NYSDOT prior to construction. Marble River is also entering into road use agreements with the Towns and Clinton County to compensate these communities for the impacts that will result from the heavy vehicle traffic. The agreements will be secured by performance bonds.

As further mitigation for traffic impacts, there will be the following:

- Haul routes have been designated that avoid more densely occupied locales as much as possible.
- Scheduled transport vehicles will be confined to the approved travel routes.
- Delivery schedules will minimize delivery during periods of school bus activity.

Construction traffic will coordinate with the Northern Adirondack Central School District

transportation personnel to minimize and/or avoid school bus arrival and departure times. The Towns note that transportation routes were reviewed to try to avoid traversing areas where schools are located, but with a school situated at the intersection of the only two major thoroughfares in the Project area, alternate routes were deemed infeasible.

- Parking at the turbine construction sites generally will be restricted to company vehicles; a shuttle service for laborers and contractors will connect with a series of centralized parking area within the active turbine sites.

- Gravel drive-offs from site access roads will serve to remove much of the tire mud from vehicles leaving the construction areas; mechanical street sweepers will be deployed as required to remove mud from local streets when it accumulates.

- Local emergency response units will be updated weekly with the location of construction activities and with the schedule/routing for relocating equipment (cranes) which might block travel on local roads.

- Mandatory safety orientation for contractors and employees shall include discussion of vehicle safety concerns.

With these mitigation measures, the Towns find that potential adverse impacts on the local transportation systems have been mitigated to the maximum extent practicable.

### Air Quality

The Towns have investigated the potential for impacts on air quality and find that the Project is not expected to have any short-term impacts on air quality other than minor,

temporary adverse impacts anticipated during site preparation and construction. The operation of construction equipment and vehicles will produce emissions from engine exhaust and fugitive dust generation during travel on unpaved roads and construction activities. In mitigation, in accordance with NYSDEC guidance, visual opacity associated with fugitive dust will be limited to no more than 20% during a six-minute period. Visual observations will be made of dust-generating activities during construction to determine when dust generation results in an opacity exceeding this limit. Steps will be taken to control fugitive dust emissions, including using water to wet down open soil surfaces to prevent dust emission, and reducing the travel speed of vehicles on unpaved surfaces.

The Project will have significant, long-term beneficial effects on the use and conservation of energy resources. The Project will generate up to 229 MW of electricity without consuming cooling water or emitting pollutants. This is enough power to support approximately 60,000 homes in New York State (on an average annual basis). The Project will add to and diversify the state's sources of power generation, accommodate growing power demand through the use of a renewable resource (wind), and, over a long-term period, displace some of the state's older, less efficient, and dirtier sources of power.

The Project will also facilitate compliance with the Public Service Commission's "Order Approving Renewable Portfolio Standard Policy," issued on September 24, 2004. This Order calls for an increase in the percentage of renewable energy used in the state to 25% (from the then level of 19%) by the year 2013. The principal benefits of the Project are also in accordance with the 2002 State Energy Plan. Accordingly, the Towns find that air quality impacts are overwhelming positive.

## Safety Issues

Construction of large-scale generating facilities presents potential safety issues. Each safety issue has been considered by the Towns.<sup>8</sup>

### Fire Safety

Under the Local Laws Marble River was required to prepare a Fire Safety Plan (Fire Safety & Control Plan, appendix O of the DEIS). The principal combustible material in a wind turbine is lubricating oil, located in the nacelle at the rotor hub. Should the nacelle catch fire, planned action is to allow it to burn out while protecting field, forest, and shrubbery growth below with conventional fire fighting equipment and procedures. This provides the maximum protection to public safety.

In addition, Marble River is entering into a Host Community Agreement requiring Marble River to meet, on at least an annual basis, with the fire chief of each fire district where turbines are located, to review current access, fire suppression, water supply placement, training needs, and other related issues. The initial meeting with each fire district will take place within ninety (90) days of the date of this Agreement. If necessary, the fire protection plan will be updated after each meeting

### Ice Shed

Ice shed occurs when ice builds up on the turbine's blades. Ice shed is a concern given the cold temperatures normal in Northern New York winters. The Towns believe the setbacks required by the local law are sufficient to protect against danger to the public.

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<sup>8</sup> Traffic safety issues are dealt with in that section.

Generally, ice buildup slows a turbine's rotation and will be sensed by the turbine's control system, causing the equipment to shut down. In addition, the Project is located on private property and access by the general public is restricted. An added layer of safety exists in that due to uneven ice build up, generally an imbalance would result in a vibration warning condition wherein the turbine would be automatically shut down by the control system and would require a manual start by an operator.

The operations staff working in and around the turbines may be at risk of ice shed from the blades if they are beneath the blades when icing conditions exist. Therefore, Marble River trains its staff to recognize this condition and avoid working around the turbine areas when the condition is presented.

#### Stray Voltage

Wind power projects and other electrical facilities can create stray voltage to varying degrees, based on factors such as operating voltage, geometry, shielding, rock/soil electrical resistivity, and proximity (D. Carr, personal communication). Stray voltage from such facilities usually only occurs if the system is poorly grounded and located in proximity to ungrounded or poorly grounded metal objects (fences, buildings, etc.). Proper grounding, installation, and maintenance practices will assure that the Marble River Wind Farm does not cause or contribute to stray voltage in the area.

Soil resistivity studies have been completed at the substation sites. The New York Power Authority ("NYPA") requires a ground grid of less than 5 ohms, the substation has been engineered to meet this NYPA requirements. The grounding system will be designed to meet

IEEE 80 and communications circuits will have suitable transient surge protection. Thus, the facilities will not present any unique risk of stray voltage.

#### Other Health Risks

The Towns received comments speculating that wind energy facilities present significant health risks, particularly from noise. The Towns addressed each concern in the FEIS. The Towns note that not a single allegation was supported by scientific evidence. After reviewing the claims, the Towns find there is no evidence of public health threats of the nature alleged, notes that no wind park in New York - all of which have shorter setbacks - has exhibited such problems, nor have they occurred at the hundreds of other facilities across the country. Based on the documented levels of noise at other sites, their own observations of an operating wind farm, and the voluminous evidence in the record, that their setbacks provide the necessary separation from the facilities to protect public health. and accordingly the Project will avoid adverse impacts to public health to the maximum extent practicable.

#### Wetlands and Other Water Resources

The Project area, particularly in Clinton, includes numerous wetlands. Access roads, wind turbines, the electrical collection systems, and substations have been sited to avoid wetland and other water resource areas to the maximum extent possible. However, siting constraints and the prevalence of large wetland complexes within the Project Area prevent the total avoidance of wetland and other water resources. The relative value of impacted wetland resource varies throughout the Project Area. For this reason the applicant has completed a “Wetland Quality Functional Assessment” (Appendix D of the FEIS), in consultation with the NYDEC and USACE, to qualify and quantify the relative value of each wetland resource that

will be impacted by project facilities. The results of this field assessment, combined with the extensive data compiled during the 2005-2007 field wetland delineation reports (See DEIS, SDEIS and FEIS) provided the field data necessary for Marble River, the Towns and the Towns' consultants as well as the NYSDEC and USACOE to avoid and minimize to the maximum extent practicable impacts on wetlands and other water resources arising from the overall Project. For a detailed discussion of the specific wetland avoidance and minimization measures implemented please refer the Appendix C of the FEIS.

Construction of the wind turbines, access roads, substations and the electrical collection system will have some permanent and temporary impacts on both state and federally regulated wetlands.. As part of the avoidance and minimization effort, the Marble River layout was revised to assure that no turbine foundations would be located in, or create permanent impact to, existing wetland resources.

During construction, potential direct or indirect impacts to wetlands and surface waters may occur as a result of the installation of access roads, the upgrade of local public roads, the installation of buried electrical interconnects, and the development and use of temporary workspaces around the turbine sites. Direct impacts include clearing of vegetation, earthwork (excavating and grading activities), and the direct placement of fill in wetlands and surface waters. The construction of access roads, and in some cases the upgrade of local public roads will result in both permanent (loss of wetland/surface water acreage) and temporary impacts to wetlands. The development and use of temporary workspaces will result in only temporary impacts to either streams or wetlands. The installation of buried electrical interconnects will temporarily disturb streams and wetlands during construction as a result of clearing (brush

hogging, or similar clearing method requiring no removal of rooted woody plants), and soil disturbance from burial of the electrical interconnects.

There are approximately 13,288 acres of jurisdictional wetlands within the Project area. The U.S. Fish & Wildlife Service (USFWS) National Wetlands Inventory (NWI) identified, approximately 5,618 acres of Federally regulated wetlands within the Project area. Review of NYSDEC freshwater wetlands mapping indicates that there are approximately 7,670 acres of state-regulated wetland in the Project area. A review of the USDA NRCS Soil Survey Geographic Database for Clinton County, New York indicated that 23 of 54 mapped soil units within the survey area were identified as wetland soils (hydric soils and soils with hydric inclusions).

Marble River delineated wetlands within the Project area.. Predominant wetland covertypes delineated at the site included palustrine deciduous forest, palustrine scrub shrub, and palustrine emergent.

The Project will result in the following wetland impacts: Total Wetland Disturbance – 62.25 acres; Temporary Disturbance – 53.95 acres; and Permanent Loss – 8.69 acres. Additional detail regarding specific wetland impacts (including break-outs of permanent and temporary impacts by project component) is provided in the Final Wetland Impact Summary Tables located in Appendix B of the FEIS (Tables 6-12).

The Applicant has proposed a wetland mitigation plan to compensate for the discharge of fill material into waters of the United States, and NYSDEC wetlands and adjacent areas (See Appendix E of the FEIS). The plan also includes compensation for the loss of functions and values associated with the permanent alteration of forested wetland canopy

removal as a result of maintaining the overhead electric collection line. . At the suggestion of the NYDEC and USACE, the Applicant conducted a wetland quality functional assessment (Appendix D of the FEIS) to determine the appropriate mitigation ratios necessary to assure that the project does not result in a net loss of functional wetland habitat. The assessment ranks each wetland by two general categories; 1) biological attributes, and 2) disturbance factors. Attribute scores were then cumulatively tallied to determine specific mitigation ratios for the following three wetland categories: 1) emergent wetland habitat, 2) scrub-shrub wetland habitat, 3) forested wetland habitat.

Based on the guidance included in the NYDEC *Compensatory Mitigation Procedures Manual*, the Marble River wetland impact mitigation plan defines a total of 25.44 acres of wetland habitat to be restored and enhanced (and 2,243 linear feet of surface water-body to be restored) as adequate compensatory mitigation for permanent and temporary wetland impact associated with the construction of the project.

Given that the wetland mitigation plan provides for specific compensatory measures (restoration, enhancement and creation) to achieve a zero net loss of functional wetland value within the project area, and given that the mitigation plan has been developed and appropriate mitigation ratios have been agreed upon with the NYSDEC and USACE permitting authorities. The Towns find that the Marble River compensatory wetland mitigation plan is sufficient to adequately compensate for the unavoidable permanent and temporary wetland impacts created as a result of the project.

As noted above, a draft SWPPP in accordance with the NYSDEC State Pollution Discharge Elimination System (“SPDES”) General Permit has been developed for the project and submitted to the NYSDEC.

The draft SWPPP contains extensive erosion and drainage control measures that will be implemented during construction and for the duration of construction. Proper construction equipment use and maintenance to prevent introduction of invasive, non-nature species into wetland areas will be required, including post-construction monitoring of restored areas to ensure no invasive species have established within the impacted areas. The draft SWPPP also includes control measures governing the rinsing of concrete trucks, and use of protective mats to avoid unnecessary compaction of soils. Debris and excess materials from construction activities will be promptly removed from wetland and adjacent areas following the completion of construction.

The Towns note that the above mitigation site plan requirements and mitigation ratios have been approved by the NYSDEC and USACOE in the joint wetland permitting process for the Project.

#### Groundwater

Operation of the Overall Project is not expected to permanently impact shallow groundwater within each Project Site because the Project will add only small areas of impervious surface to the Project Area. The effect on groundwater recharge will therefore be minimal.

Construction could result in potential localized impacts to groundwater and the use of that water by adjacent landowners including temporary, localized disruption of

groundwater flows, and the introduction of pollutants to groundwater from accidental spills of petroleum and other chemicals. Spills and impacts from erosion or sedimentation would be prevented and controlled by measures which are required by and presented in the SWPPP. In addition, shallow groundwater may be encountered during excavation for construction of the turbine foundations. Groundwater entering the excavation, if any, may be pumped out during installation of the foundation and will be discharged to an area (approved by the landowner) that will either direct the flow towards existing waterbodies or temporarily retain the water until it can infiltrate back into the ground.

The above measures will avoid or mitigate potential adverse impacts to groundwater from the Project to the maximum extent practicable.

#### Surface Water

Ninety-Five (95) surface waterbody crossings have been identified within the project area. Ninety-four of the ninety-five surface waterbody crossings are not regulated by the state. The only NYSDEC protected stream that will be crossed is the English River. The Marble River wetland mitigation plan (as described in Appendix E of the FEIS and summarized above) specifically includes the restoration of 2,243 feet of surface waterbody as compensatory mitigation for the temporary and permanent impact of 1,171 feet waterbody crossings within the Project area. The Applicant has consulted with NYSDEC authorities in developing a project SWPPP that insures that all culverts are appropriately sized and sited. (see above discussion of project SWPP). During construction, appropriate erosion control measures will be implemented (including silt fences and hay bales) to limit the area of impact. Additionally, to assure compliance with all mitigation measures and SWPP protocol, the Applicant will provide the

construction contractors with copies of all NYSDEC (Article 24 & 15) and USACOE permits (Section 404), site specific plans detailing approved construction and mitigation methodologies and requires natural resource protection measures.

These measures, will, in the opinion of the Towns, fully protect these resources and minimize and avoid potential adverse impacts to the maximum extent practicable..

### Wildlife Impacts

The Towns note that while significant impacts on most wildlife species are not expected as a result of construction and operation of the Project, some limited mortality of less mobile species during the course of construction may occur, and as recognized from other operating windfarms throughout the United States, operation of the Marble River Project has the potential to impact avian and bat species.

First, importantly, no state threatened or endangered plants were detected within any portion of the Project Area during the field survey efforts. Therefore no impacts on threatened and endangered plant species are expected as a result of construction or operation of the Project.

Second, it is noted that indirect impacts on wildlife will occur as a result of habitat loss/alteration in association with construction and operation of the Project. However, these impacts are not expected to be significant based on the predicted scale of the impacts with respect to areas within the Project that will remain undisturbed. Construction and operation of the Project will result in minimal loss of habitat as compared with available habitat in the Project Area. In addition, the impacts on habitat have been minimized to the greatest extent possible due

to the fact that the applicant has sited, wherever possible, access roads, turbines and collection lines in and around previously disturbed land (be it from agricultural, logging or residential use).. Due to the heavy hunting, logging and agricultural uses that the project area is currently used for, the Town believes that the wildlife within the Project Area is already accustomed to disturbances of this nature and will easily adapt by making use of disturbed areas that are restored following construction.

Third, significant investigations into potential wildlife impacts have been conducted. Bird and bat surveys were completed as part of the Avian and Bat Risk Assessments in 2005. These surveys were undertaken over multiple seasons through a variety of weather conditions.. The results of the field surveys were consistent with other studies conducted regionally as well as locally..

The Avian Risk Assessment included migrating raptor and songbird surveys that have since been reviewed and commented on by the NYSDEC and USFWS. Data from the migrating raptor survey indicated that the passage rate in the area is low relative to other regions in the state. Additionally, the migrating songbird radar data from the fall and spring surveys indicate that the passage rate is consistent with, if not a bit lower, than similar data collected at windfarm sites within the state.

Data from the spring and fall anabat survey (see Appendix F of the DEIS) when combined with the spring, summer and fall field surveys indicates no presence of the endangered Indiana Bat. Additionally, the results of the surveys suggest that the most common habitat for common bat species included wetlands and hedgerows but the data made no indication of the

potential existence of areas of high seasonal migration, or uncommon, concentrations for any bat species.

The Towns find that the avian and bat risk assessment data collected by the Applicant was sufficient, based on precedent set for avian studies completed for similar wind projects throughout NYS, to adequately forecast the potential for adverse avian impact. Further, the town notes that the data indicate that the project area does not attract a relatively high number of migrating raptors, nor does it attract unusually high concentrations of migrating songbirds. Lastly, the Towns note that the anabat surveys (and subsequent field studies) indicated that neither the presence of the Indiana bat, nor the existence of any uncommon bat populations or habitats occur within the Project Area. For these reasons, combined with the fact that the Applicant specifically avoided siting wind turbines within existing wetland habitats, the Towns find that the potential adverse impact to avian and bat populations does not represent any undue risk to local avian and bat populations.

The Applicant also conducted a 2007 breeding bird and area search surveys designed to expand upon and supplement the surveys conducted in 2005 and complete a multi-year surveying effort to establish baseline avifauna breeding data for future post-construction habitat displacement monitoring surveys.

A total of 94 bird species was observed during the 2007 survey. No state or federally endangered bird species were observed during surveys within the Project area. However, several New York State threatened and special concern species were noted. State-listed threatened species include the pied-billed grebe (*Podilymbus podiceps*), northern harrier (*Circus cyaneus*), and upland sandpiper (*Bartramia longicauda*). Observed species of special concern include the

grasshopper sparrow (*Ammodramus savannarum*) and vesper sparrow (*Pooecetes gramineus*). Sightings of sensitive species occurred in both field and wetland habitats, no sensitive species were observed in forested portions of the study area. This result may be attributable to the fact that these areas have been historically logged and are heavily fragmented.

To minimize impacts to any state-referenced species, an Environmental Monitor will survey work areas that are considered suitable for nesting. If any nesting threatened or endangered species are observed in the immediate proximity of a construction area the Environmental Monitor will work with Marble River to ensure that the appropriate avoidance measures are taken into consideration and the birds are not negatively impacted.

Additionally, at the request of DEC and consistent with its approach for all windfarms permitted in New York State, a post-construction mortality monitoring study protocol has been developed to in order to add to the current understanding of Avian/Bat interactions with wind farms. The post-construction study for the Project includes bird/bat mortality monitoring during spring and fall migration periods for up to 3 years following construction, this is in accordance with the protocol developed between the Applicant and the DEC and ACOE. With respect to non-avian species, based on consultation with USFWS and NHP, except for transient species, no non-avian threatened or endangered animal species or communities were identified within the Project Area. Therefore, no impacts to non-avian threatened and endangered animal species are expected as a result of construction or operation of the Project. No significant impacts are anticipated for species of local significance including white-tailed deer and black bear. Only minor loss of their habitat will occur, since most Project Sites have been previously disturbed.

The Towns are aware that the wind towers, like any tall man-made structure, will cause avian and bat fatalities. The avian risk assessment and the multi-year breeding bird surveys indicate that, though the migration rates of avian species are relatively low within the project area, and though no endangered species were found in existence within the project area, the Towns find the potential fatalities to not be biologically significant

### Project Benefits

#### Air Quality

The Project is expected to have a long-term beneficial impact on air quality in the region impacted by fuel-based electric generators serving the New York State electric market. It is well documented that electric generation by fossil fuel-fired facilities contributes to serious environmental and health problems from CO<sub>2</sub>, SO<sub>2</sub>, NO<sub>x</sub>, particulate matter, and mercury emissions. The Project will displace electric generation from other sources that would have emitted significant levels of these pollutants.

Thus, the Towns find the Project will have a significant long-term beneficial impact on air quality by producing electricity without any emissions to the atmosphere. The Project is expected to reduce power plant air pollution in New York State by about 180 tons of NO<sub>x</sub>, 182 tons of SO<sub>2</sub>, and 106,895 tons of CO<sub>2</sub> annually, by displacing dirty fossil fuel-based electric generation.

#### Economic Benefits

The Towns find there are significant economic benefits from this Project. In fact, the Marble River and Noble Projects are the largest economic development projects in the

history of the two Towns, representing over \$700 million in investment in the communities, and creating jobs and municipal revenues for the life of the Project. There is also a significant benefit to farmers from leasing their lands. Conversely, the studies presented and the public comments received do not evidence any measurable adverse economic effects. The Towns recognize that the Project will have some impacts on the communities' infrastructure, however, the Towns find the enormous economic benefits more than offset the potential impacts.

### Employment

Construction of the Project will result in the direct employment of up to 250 electrical workers, crane operators, equipment operators, carpenters, and other construction workers. During plant operations the Project will employ 15-20 skilled operators, management, and administrative personnel (with a total estimated payroll and benefits of over \$700,000 per year). Salaries for all company personnel will be at least 100% of the average Clinton County wage.

To the extent practicable, local labor will be used to fill these positions to maximize the benefit to the local community. It is anticipated that individuals in the local community would be trained to complete the necessary tasks, and current residents would fill the majority of these jobs to the extent practicable. The exception would be any specialized wind farm managers and maintenance leads, where an individual would need to be brought to the Project Area if there was no one qualified within the community. This or any increase in the local population attributable to the Project would be negligible, and no impact on the housing market is anticipated. The Towns note the deliberate interest shown from local educational

institutions like Clinton County Community College to work with Marble River to develop a technical expertise in wind operations maintenance and management.

#### Taxes, PILOT Payments, Host Community Payments

There are three types of direct transfer payments resulting from the proposed Project: Taxes, Payments in Lieu of Taxes (“PILOT Payments”), and Host Community Agreement payments (“HCA Payments”). Because the Project will be titled in the name of the Clinton County Industrial Development Agency (“CCIDA”), it is exempt from most real estate taxes. However, it will not exempt from special district taxes, including Fire District taxes. The Project is expected to add \$ 270,000 in total assessed value to the Town’s (\$218,000,000 in Clinton and \$52,000,000 in Ellenburg). Marble River is in negotiations for a PILOT Payment with the CCIDA that will provide funds to both municipalities, plus the County and one local school districts. The Northern Adirondack Central School District will receive hundreds of thousands of dollars a year for the life of the PILOT – and over a million dollars per year annually when including the payments from the Noble Ellenburg and Clinton PILOT agreements- yet it will not have any increased costs because the Project will not cause long-term population growth, and thus children to educate. The Towns find this a significant benefit to the community, especially the school-age children, as it will greatly enhance the funding of education in the community. Clinton County will also receive significant benefits. The CCIDA will also benefit from the fees Marble River will pay it in return for the grant of financial assistance.

The main source of funds to the Town will be HCA payments. These reflect payment to the Town for the use of Town property.

Projected Revenue from Marble River Project

<u>Town</u>	<u>\$5000/MW PILOT Payment</u>	<u>\$3000 HCA Payment</u>	<u>Annual Revenue to Town</u>	
<u>Clinton</u>	<u>\$373,000</u>	<u>\$554,000</u>	<u>\$927,000</u>	
<u>Ellensburg</u>	<u>\$66,000</u>	<u>\$132,000</u>	<u>\$199,000</u>	

1 PILOT Payments assume 2006 Tax year

2 CPI Inflation starts for PILOT in Year 6, HCA in Year 6

Benefits to the Towns' Agricultural Community

As noted, the Project will utilize a substantial amount of farmland. As a consequence, Marble River will pay local landowners, especially farmers, significant lease and royalty payments. Agriculture is the largest industry in the area, and it has been challenged economically. The lease and royalty cash flow from the Project may well make the difference for the survival of a number of local farms. In light of the local communities' historical reliance on a strong agricultural economy, the Project represents an important economic and social contribution and benefit.

Other Social Impacts - Population and Housing

The Project is not expected to have a long-term impact on housing and population in the Towns, but it may result in short-term impacts on local lodging. It is estimated that during the construction period there will be a temporary influx of construction workers to the area, and there will also be additional non-local personnel delivering equipment or materials. Local contractors and labor will be utilized to the extent practicable to maximize the benefit to the

community, and these individuals will commute to the Project Site. This will mitigate the temporary increase in local population and the need for additional local housing. Construction workers coming from outside the Project Area for the construction phase of the Project will likely reside in motels/hotels in the vicinity of the Project Area. Marble River will communicate with local merchants about needs for lodging and other services during construction. As noted in the DEIS's economic study, given the hotel capacity in the area, it is not expected that the demand for temporary lodging from out of town laborers will have a negative impact on the local tourism industry.

### Noise

Noise, both long -term from the operation of the project, and short-term from construction, is a major consideration for the Town Boards since wind facilities were first proposed. In addition to the analyses discussed herein, the Town Board members visited existing wind farms and spoke to residents living near these facilities. The Towns hired their own engineers, to both conduct reviews of Marble River's submissions, and to conduct independent tests. The Town's tests included not only the Marble River Project, but also the Noble projects in Ellenburg and Clinton.<sup>9</sup> The conclusions of the Towns are based on the reports and findings of the Town's experts, in addition to the information provided in the DEIS/SDEIS and FEISs.

Analyses were performed in the Towns to establish baseline ambient noise levels, and to assess the impact which the Marble River Project would have on potential noise receptors during both Project construction and Project operation. The Towns utilized two guidance documents for the evaluation of noise impacts and identification of mitigation techniques: the

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<sup>9</sup> Cumulative impacts, including cumulative noise impacts, are also discussed in the Cumulative Impact section of this document.

noise standards established in the Towns' Wind Energy Facilities Local Laws, and the NYSDEC "Program Policy DEP-00-1 Revised: June 3, 2003 – Assessing and Mitigating Noise Impacts" ("Noise Policy"). Town experts also did their own tests to establish baseline ambient noise levels, both in the Towns and at existing wind parks.

Under the NYSDEC Noise Policy, sound pressure increases of more than 6 dB(A) over existing conditions may require a closer analysis of potential impacts, depending on existing sound pressure levels ("SPLs") and the character of the surrounding land use receptors. Sound pressure increases of more than 6 dB (A) over existing ambient conditions occur at a small number of receptor locations. Accordingly, potential adverse sound impacts associated with the Project have been minimized and mitigated by:

- placing the turbines so that they comply with the 50 dB(A) sound pressure level limit at each applicable receptor location, as required by each of the Towns' Wind Energy Facilities Local Laws;
- utilizing the GH WindFarmer software program to calculate Project operation sound levels, and to eliminate turbine locations which would exceed the maximum allowable sound pressure level of 50 dB(A) at the applicable receptor location.
- limiting construction activity to daytime hours, Monday through Friday, and including limited activity on Saturdays (unless otherwise permitted by the Town Boards) Note - the Applicant will use best efforts to limit construction activity to daytime hours to the extent possible.

The Towns' Wind Energy Facilities Local Laws establish the allowable SPL limits associated with Project operation. These limits are generally in accord with the agricultural and rural character of the Towns. Indeed, ambient sound levels in the Towns are generally characterized by the Towns' rural and agricultural character and predominant uses. Within the Project areas, there are active and inactive agricultural areas, areas of forest, and the general population is rural residential consisting of scattered residences along public roads. Sound levels for similar areas typically range from 30 to 40 dB(A). Sound levels from agricultural activity can be much higher, ranging from 50 to 96 dB(A) at 50 feet from the source of the sound.

The Towns require that Project operation not exceed an  $L_{10} - 50$  dB(A) measured at specified receptor locations (Town of Ellenburg – nearest inhabited off-site dwelling existing at the time of application; Town of Clinton – nearest residence located off the Site). The Towns' Laws uniformly provide that if the ambient SPL exceeds 50 dB(A), the standard shall be ambient dB(A) plus 5 dB(A). The Wind Energy Facilities Laws of the Town of Ellenburg also provide that in the event the ambient noise level, exclusive of the Project, exceeds the aforesaid standard, the standard shall be adjusted so as to equal the ambient noise level.

The predicted sound level due to the simultaneous operation of the wind turbines will not exceed 50 dB(A) at any of the applicable residential receptor locations. These impacts are generally consistent with the ambient sound levels in the surrounding area. Compliance will be monitored and verified during operation of the Project.

The Towns have reviewed the documentation and comments submitted in the public comment process. Some comments suggest the allowable noise limits violate NYSDEC

regulations, but the NYSDEC does not have regulations specifically governing wind energy facilities. Further, Table E of the Policy describes 50 dBA - the maximum allowed in the Towns, as “quiet.”

The NYSDEC Noise Policy provides little guidance on mitigation techniques that might be appropriate for wind projects. While the Noise Policy suggests that adverse noise impacts can be avoided or reduced at the point of generation, in the case of a wind turbine it is not feasible to construct a noise reduction wall. Reorientation of turbine location is similarly infeasible for the Project, given other confining elements of the Project sites, including the need to avoid high quality wetland areas, the presence of existing structures, required setbacks, and topographic features. Nonetheless, Project noise levels will not exceed the maximum SPLs established by each of the Towns’ Wind Energy Facilities Local Laws, which limit acceptable impacts to a band consistent with the existing character of the Towns. Concerning noise related to Project construction, there are no state or federal limits established, and construction sound levels are not addressed by the Towns’ Wind Energy Facilities Laws. Project construction is, nonetheless, expected to comply with guidance set forth under NYSDOT Environmental Procedures Manual, 3.1, “New York State Noise Analysis Policy.” The NYSDOT Policy provides that construction related sounds below 66 dB(A) will not likely impact nearby receptors.

Project construction noise will generally conform to the NYSDOT Policy. Additionally, noise levels associated with nearby agricultural activity will in many cases exceed Project construction noise levels.

There are a number of factors that will mitigate Project construction noise impacts. Construction activity will be temporary in duration, and except for occasions where specifically requested by the Applicant, not occur on Sundays or during non-daytime hours when the ambient noise is generally quieter. Noise from access road construction will attenuate quickly as the road construction activity progresses away from the receptor location.

Where blasting is necessary, Site-Specific Blasting Plan guidelines set forth in the blasting plan guidelines in the DEIS. Prior to any blasting activities the blasting contractor will notify the Town to obtain approval. Although the noise level at a distance of 1,200 feet (required turbine setback distance from off-site residences) is not expected to exceed 66 dBA. The Blasting Plan includes noise mitigation techniques, including tamping of stemming into blast hole collars, use of blasting mats, limitation of blasting activity to the hours of 10:00 a.m. to 12:00 p.m. and 2:00 p.m. to 4:00 p.m., Monday through Friday, and notification to adjacent landowners and tenants. Blasting noise will be extremely short in duration and infrequent.

Project construction and operation noise is not expected to produce significant changes to existing ambient conditions. Monitoring of Project operation noise levels and compliance with applicable noise level limits will work to ensure the same. Where necessary, turbines have been eliminated from the Project, and potential reorientation of turbine sites to achieve minor reductions of noise levels would only work to adversely impact other critical environmental resources. Project noise impacts have been avoided and/or mitigated to the maximum extent practicable for this Project.

### Visual Impacts

The Towns of Clinton, Ellenburg conducted a detailed visual analysis to assess the potential significant visual impacts from the Project, both individually and cumulatively.<sup>10</sup> The existing visual landscapes around the Clinton and Ellenburg Projects are comprised primarily of farmland with sparse residential and commercial uses.. Existing buildings in the landscape for the project include, homes, small businesses local roads, utility lines, farms and silos. There are tall structures throughout the project area including water towers and radio and cell towers. Landforms consist of rolling hills containing forest, farm fields and wetlands. The Project Area in Clinton is located on flatter lower ground while the Project Area in Ellenburg is located within more pronounced rolling hills.

Visual resources within 5 miles of the project were identified including any historical structures, parks, scenic views and landmarks. The visual resources were then analyzed to identify the most prominent views of all the project from these resources and from the general area surrounding each site. The simulations presented in the DEIS and SDEIS show that from distances of less than 2 miles, the turbines for the project will be prominent features on the landscape and visible from many locations. While individual views may be blocked in certain locations, by trees, topography, buildings and other structures, the turbines as a general matter will be prominent visual features on the landscape. Nevertheless, based on the analysis in the DEIS, SDEIS and FEIS and discussed below, no prominent views from any national or State parks or designated scenic areas are expected.

Views of the Marble River Wind Farm were evaluated from major public roadways bi-secting the project area, including Route 190 in Ellenburg, Route 11 in Clinton and

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<sup>10</sup> The Town also considered the cumulative impacts from two other wind farms - the Noble Clinton and Ellenburg Windparks.

Route 189 in Clinton (as well as the hamlets of Churubusco in Clinton and the Ellenburg Center in Ellenburg). The analysis shows that due to the existing relatively flat topography, tree cover and buildings within Clinton will screen the project from most vantage points within Clinton and Churubusco. The simulations show that it is likely that the project will be visible from many points south of Route 190 (facing north) due to the higher elevation of the south side of Route 190. At the request of the DEC, viewpoints from the Gulf State Unique Area (“GSUA”) were included in the visual analysis. As noted in the SDEIS and FEIS, dense vegetation and tree growth on and around the GSUA will minimize or prevent the viewing of turbines.

The Project is also not expected to have any significant visual impacts on scenic resources in the Adirondack Park. The southern boundary of the Marble River Project is adjacent to the Park. The visual analysis considered views of the Project from scenic lookouts in the Park. The closest hiking trail is on the top of Lyon Mountain which is located about 12 miles from the southern boundary of the Marble River project. A visual simulation at ground level from this vantage point showed that the northerly views toward the Marble River project are completely screened by foreground vegetation. However, the Marble River Project, as well as all three Noble Projects, will be visible in the distance from the fire tower on top of the mountain (see visual simulations in the DEIS and SDEIS). Given the intervening distance between the mountain and the site, the turbines will be a minor part of the viewshed and will not be prominent features of the landscape.

In addition, the Project is not expected to have any significant visual impacts to Point Au Roche State Park or the Lake Champlain area. The Marble River Project will not be seen from these locations. As noted above, the current land uses around the Project are primarily agricultural. Agricultural buildings and equipment are a visible part of the landscape. While the

entire Project will result in a change to the visual landscape, this change is compatible with the current agricultural uses. The turbines will not interfere with the agricultural uses of the surrounding land and the building materials used for the turbines are similar to those to construct silos and new farm buildings. These building are already a distinct part of the Towns' visual landscapes

The Project will employ a number of mitigation measures designed to minimize, to the maximum extent practicable, the visual impacts from the turbines. These mitigation measures include the following: (1) The turbines will be painted non-glare gray/white to blend into a white/gray sky; (2) The turbines will be laid out in a random, natural pattern and do not provide rigid straight lines that could interrupt the flow of the landscape; (3) The height of the turbines will comply with the maximum height restrictions included in the laws of the Town of Ellenburg but will require a height variance in the Town of Clinton; (4) no names, large markings or advertisements will be painted on the turbines.

#### Shadow Flicker

Turbines, like all tall objects in a landscape, will cast a shadow on sunny days. Because the turbines are tall, these shadows can extend to neighboring properties. Shadow flicker occurs where the sun shines through the moving blades causing a repeating pattern of light and shadow on nearby objects. The shadow flicker is not health threatening. Due to the size and speed of the blades, shadow flicker may be viewed as far as 1650 feet away although topographic and atmospheric conditions and other obstacles are likely to prevent seeing this condition at this distance.

The DEIS and SDEIS contain a detailed shadow flicker analysis to determine which homes might be impacted by shadow flicker. It was determined that a total of 11 homes throughout the project area could potentially experience shadow flicker of more than 25 hours per year (with a maximum of 37 hours per year at one residence). Industry norms show that shadow flicker of less than 25 hours per year is considered generally a non-effect. Further evaluation has been undertaken to determine whether mitigating circumstances are present at the eleven homes that the analysis indicated could experience shadow flicker for greater than 25 hours/day. A case-by-case evaluation included an assessment of vegetation and intervening obstacles that may block the impact, and the orientation and location of windows relative to the turbines. Cloud cover will also mitigate some effects on shadows. Based on meteorological data for the area, local average cloud cover is approximately 30% of the year, thus suggesting that the analysis provides a conservative assessment of the potential flicker effect within the project area. When the mitigating effects of the relatively flat topography, existing vegetation and structures are taken into account, combined with the fact that the ten of the eleven potential receptors are participating landowners, the Town finds that any potential negative impact of shadow flicker has been reasonably minimized and mitigated.

#### New Access Roads

The DEIS, SDEIS and FEIS also evaluated the potential adverse visual impacts from the construction of 48 miles of new access road for the Project. These are necessary to provide access for construction and maintenance equipment/vehicles to the Project structures from town or county roads (Approximately 6.4 miles in Ellenburg and 41.6 miles in Clinton).

All access roads will be constructed to a width of between 16 to 34 feet.

Permanent road width will be 34 feet in areas that are not active agricultural land. The turbines have been constructed in clusters to reduce the amount of roads that will be necessary to access the project. The construction of these roads will occur primarily on existing agricultural lands and therefore require minimal tree clearing. To the maximum extent practicable, the roads are proposed to be located on previously farmed or disturbed lands and in areas where minimal tree growth exists. Overall, the visual impacts from the construction of these roads are not expected to be significant.

#### FAA Safety Beacons

As required by FAA regulations, the project will require warning lighting beacons on the nacelle of the turbine to prevent aircraft collisions. The lights will pulse red at night, with the minimum intensity and duration allowed by the FAA to maintain public safety. With the exception of the substation, that will include a lighting plan in accordance with NYPA security and safety protocol, there will be no daytime lighting and no other on-site lighting of wind turbine structures. A lighting plan was prepared for each site in accordance with FAA guidance. These plans were included in the DEIS and SDEIS.

To reduce visual impacts to the maximum extent practicable, the warning lights will not be installed on all turbines. For the Clinton project, 38 out of 68 (56%) turbines will have the beacons. The FAA has determined that 22 out of 109 turbines (20.2%) will require beacons.

Turbines located around the outer-perimeter of each cluster will be equipped with warning beacons with a maximum gap between beacons being no greater than 0.5 miles. If the

beacons are crowded at any point in along the perimeter, a beacon may be pushed back to another turbine inside the cluster to present a balanced lighting program. Moreover, if the distance across the cluster is greater than 1 mile, or the terrain may vary within the cluster (+100 feet from the perimeter elevations), turbines within the cluster may be equipped with a beacon to prevent pilots from descending into the center of the cluster.

Lighting will be visible at night from most locations where visibility of the turbines is available as identified in the simulations. The number and spacing of FAA safety beacons has been limited to the minimum necessary to ensure public safety while minimizing visual impacts to the maximum extent practicable.

Based on the foregoing, the project will have unavoidable visual impacts as the turbines will be prominent features on the landscape and visible from many locations. However, these impacts are generally compatible with the rural, agricultural character of the community and as a general matter cannot be eliminated if commercial windfarms are to be sited within the Towns. The specific mitigation measures identified above will be employed to reduce or avoid adverse visual impacts from the Project to the maximum extent practicable.

### Cumulative Impacts

From the outset of the Project, the Towns have been concerned with the cumulative impacts of the Marble River Project and Noble Projects in Clinton and Ellenburg. The DEIS included a detailed discussion of cumulative potential cumulative impacts of Noble Clinton Wind Park, Noble Ellenburg Wind Park and the Marble River Wind Farm. (see section 5 of the DEIS for additional detail in cumulative impacts.

According to the information presented in the SEQRA documents filed by Noble, the proposed Clinton and Ellenburg projects will consist of approximately 120 turbines in the same general vicinity of the proposed Marble River project. Many of the potential impacts created by each of the projects are mutually exclusive, and hence unlikely to create any additional impact associated with a cumulative review (either positive and negative). Examples of such impacts that are mutually exclusive per project are the following:

- Project facilities layout
- Potential ground surface impact including associated wetland & waterbody impacts & archeological impacts
- Potential positive economic impact to the host communities
- Potential positive impact to Air Quality

Such quantitative impacts do not lend themselves to the possibility of creating additional negative or positive impact beyond the sum of the respective impacts stated in the DEIS/FEIS for each project. For this reason the town finds that the impacts associated with each of these categories do not create any additional negative cumulative impact to the Towns.

The Towns acknowledge the potential for additional adverse impact associated with the cumulative character of the proposed projects in within Ellenburg and Clinton. Specifically, the Town required further review of the potential cumulative impacts to the Towns as they regard the following categories:

- Potential cumulative Traffic impact to local transportation resources
- Potential cumulative Noise Impact to local receptors
- Potential cumulative Visual Impact to community resources

Cumulative Traffic Impact:

Given the scale of the construction projects and associated component delivery traffic that will exist during the construction periods of each project, the Towns recognize the potential for cumulative impact to local transportation resources within the Project areas. Specifically, given the close proximity of the proposed projects within the Town of Ellenburg and the relatively small period in which construction and delivery activities usually occur (between May and November), the Town believes that State Rte 190 and local roads within the Ellenburg (Moore Road, Bohem Road, Tacey Road, # 5 Road & Brandy Brook Road) have the greatest potential to experience significant additional traffic impact associated with the combined construction activities. Review of the respective Transportation and Delivery plans (see SDEIS) for each project suggest the existence of overlapping delivery routes along these roads.

To minimize this potential additional cumulative impact Marble River and the Noble projects have agreed (in the DEIS) to coordinate major delivery and construction events with the Town permitting engineers. Additionally the Towns have entered into Road Use agreements with the Town's wherein they are required to coordinate with the Towns all traffic activities on the above-mentioned overlapping delivery routes.

The Town's note that, due to the differing construction schedules (Noble in 2007 and Marble River in 2008-09) the likelihood of cumulative transportation impact has been

largely mitigated. For this reason, and the fact all three projects have agreed to enter into Road Use agreements with the Towns, the Towns find that there is no likelihood for significant adverse impact to arise from the cumulative traffic impacts of all three projects.

It should be noted that the information presented in the Town's cumulative Impact Assessment were based on modeled parameters provided by both Noble and Marble River from the turbine layout/receptor locations presented in their DEISs. While it is recognized that these changes could slightly alter some numbers (e.g., hours of shadow flicker), it is further recognized that these changes are not anticipated to be significant enough to warrant an additional cumulative impact study.

#### Cumulative Noise Impact

The Marble River's DEIS indicates that the local ordinance limit of 50 dBA will not be exceeded at any residence as a result of the operation of the Marble River project. Alternatively Noble's noise studies indicated that four residences were predicted to experience sound levels of 50 dBA.

The operational noise of the Marble River and adjacent Noble wind projects were evaluated to determine the magnitude of any cumulative effects. The Noble turbines are generally located to the west and south the Marble River project area. The two projects occupy contiguous areas that in Clinton are separated by one or two miles while in some areas of Ellenburg, such as the vicinity of the intersection of Route 190 (Star Road) and Bohem Road, turbines from both projects are intermingled. Additional noise modeling was conducted to evaluate any potential noise impacts on residents in the area due to the cumulative noise of both projects. (See Appendix L of the DEIS for plots illustrating the potential cumulative noise

impacts). The cumulative noise study (illustrated in Plot 3 of Appendix L in the DEIS) shows that the two projects are sufficiently separated in most areas to the north and that they are acoustically independent; i.e. the sound levels produced by one project's turbines have no appreciable effect on the sound levels near the other project's units.

The study shows that increased sound levels due to cumulative noise appreciation only occur in, a) the southern part of the Projects area and; b) one area within western Clinton (a few miles west of the hamlet of Churubusco). These areas are shown in greater detail in Plots 2A and 2B of Appendix L of the SDEIS. Modeling results indicated that noise impacts from the Noble turbines are insignificant for the vast majority of homes within the Marble River Project area (i.e., cumulative increases in noise as a result of the Noble project would be a rare to non-occurrence).

The cumulative noise study revealed that, while slightly greater noise impacts are indeed created from the cumulative effect of the Noble and Marble River projects, there are zero receptors within the project area that will experience noise impact of greater than 50 dBA (per the Town's wind ordinances in Clinton and Ellenburg). The towns find that the cumulative noise assessments have reasonably shown that, while there is some additional noise impact created by the combined operation of the projects, the additional impact does not exceed the 50 dBA limit stated in the Town's Wind Energy ordinances. For this reason the towns find that the cumulative noise impact from the Noble and Ellenburg projects to be acceptable under the town wind energy siting laws,

## Visual – Cumulative - All Projects in Clinton County

The Marble River windfarm in Clinton and Ellenburg will exist within the same visual landscape as the Noble Clinton and Ellenburg projects. Accordingly, these Projects were evaluated both individually and together. The visual analyses in the DEIS and SDEIS show that the visual impacts of various viewpoints do depict in some cases (from Ellenburg looking north) a more widely dispersed and slightly more crowded viewshed. But in general, given the relatively flat topography of the sites and the distance the projects are from each other, many of the viewpoints do not experience additional cumulative impact. An analysis was also conducted to determine if the FAA lighting requirements would change if the two Projects were constructed. Because the Projects do not overlap, the lighting requirements will not be any different than those for the individual Projects.

Because the Marble River Project is separated from the Altona Project by approximately 20 miles there will be no combined visual impacts, except from Lyon Mountain which is located within the Adirondack Park, about 11 miles from the Clinton and Ellenburg Projects. The visual analysis concluded that all three Projects would be visible from this location but, due to vegetation cover, only from the top of the existing fire tower. Because of their distance from the reference point, the towns find that the Projects will not be prominent features in the landscape either cumulatively or individually.

The viewsheds for the three projects were plotted on a base map and areas of viewshed overlap identified. The cumulative topographic viewshed analysis of the proposed Marble River and Noble projects indicates that within the area of overlapping 10-mile radius viewsheds, approximately 69% of the area has the potential to see one or more turbines from

each project. Areas completely screened from views of all turbines by topography alone are limited to the valleys and backside of hills in the southwestern portion of the study area (i.e. in the Adirondack Park) and the backside of a major ridge in the northern part of the study area (in Canada). Steep ravines and river valleys in the western portion of the study area are also indicated as being fully screened from view by topography. The town notes that when factoring existing vegetation into this analysis it reduces potential cumulative visibility (i.e., areas where at least one turbine from each project can be seen) to 9% of the overlapping 10-mile study areas.

Finally, based on the photomontages provided in the Cumulative Impact Study in the Marble River DEIS, it was shown that when compared to the original photomontages without the Noble Clinton and Ellenburg projects, the cumulative impact of all proposed project wind turbines will increase the density of viewable wind turbines.

The Marble River VIA in the DEIS and SDEIS suggest that visual impact was more adversely impacted by the proximity of a turbine as opposed to the number of turbines in the viewshed. The Town's cumulative analysis suggests that the existing character of the Town's current viewshed is defined primarily by the existence of large background structures including silos and the Noble Clinton and Ellenburg Wind Parks. For this reason, the addition of the Marble River turbines would not result in a significant adverse change to the current visual character of the community.

The photomontage that included the proposed Wind Horse windpark and proposed Noble Altona Windpark does not have any cumulative visual effect on the Marble River Wind Farm due to the distance separating the three projects. The photomontages for the Gulf State Unique Area

(GSUA) show that the dense vegetation and tree growth in the GSUA will minimize or prevent the viewing of any of the Project's wind turbines from the area.

The Towns find that the individual and cumulative visual studies have been sufficient to judge the potential cumulative visual impact of the proposed projects. Most importantly, the Towns believe that no undue visual impact will be created by the addition of the Marble River wind turbines due to the fact that the existing visual character of the area is already defined by the existence of approximately 120 wind turbines within Noble & Ellenburg. The Town's also specifically note that the FAA lighting plan for Marble River has been reduced from 80% of the total wind turbines of the project (see FAA Lighting Plan DEIS) to approximately 20% of the wind turbines (see FAA lighting plan SDEIS). Thus, the Town's find that the potential cumulative impact of the three projects does not create any undue adverse visual impact inconsistent with the character of the Towns existing viewshed that outweigh positive economic and environmental benefits of the Marble River Project.

### Wildlife

Using the national average rate, an estimated 689 bird fatalities could result annually if all four projects are constructed as proposed.. Construction of the Marble River project will likely increase the local bird and bat mortality, primarily to migratory individuals as suggested in the pre-construction avian impact assessments (DEIS). However, as indicated in section 4.2 of the DEIS, the fatality rates for birds and bats will be near the national averages as there are no features in the project area within Clinton and Ellenburg that attract or concentrate large numbers of migratory birds. For this reason, the overall impacts on the avian and bat populations and individual bird and bat species in the area will not be significant..

## Alternatives

Pursuant to the requirements of SEQRA, the Towns have evaluated Project Alternatives. SEQRA requires consideration of alternatives to assess ways of avoiding or minimizing environmental impacts associated with a proposed project. The FEIS for the Project described the site selection process employed by Marble River which consisted of a series of screening analyses fundamental to choosing and siting the project area.. This process also entailed examination of a full range of environmental considerations, including effects on agricultural resources, to avoid or minimize significant impacts wherever possible. The Alternatives Analysis in the FEIS (Appendix C of the FEIS) discusses alternatives for the following: Project size; Turbine selection; Project design (including locations of turbines, substations, access roads and collection lines and the placement of collection lines either overhead or underground); Alternative technologies, Construction phasing; and the No-Project Alternative. The Alternatives Analysis also expands on the specific avoidance and minimization measures that have been implemented over a three year, iterative project layout development process.

### No Project (i.e.” No Action”)Alternative

The purpose of consideration of the “no action” alternative is to establish a baseline condition from which to assess impacts of the proposed project. Some commenters have called for the Towns to reject the Project and all commercial-scale wind farms. Their specific comments have been addressed in the Responsiveness Summary in the FEIS, and elsewhere in these Findings. The Towns note that while the No-Project Alternative will eliminate the impacts from the Project, it will also eliminate the Project Benefits which the Towns believe are important to the communities and region in which the Project is proposed.

In the Alternatives Analysis presented in Appendix C of the FEIS (and section 8.0 of the DEIS), the applicant focused on the macro-level environmental benefits, noting selection of this alternative would preclude the development of a windfarm in an area with favorable wind resources and infrastructure to support such a project. The DEIS and FEIS discussion took a regional view, noting that in the northeastern United States, available wind resource areas are limited and those that do exist are primarily located in areas that will have similar social and environmental concerns. Therefore, the selection of the No-Project Alternative would force continued reliance in the northeast primarily on non-renewable energy resources (e.g., fossil fuels and nuclear materials). Energy production with such non-renewable sources results in a plethora of severe direct and indirect adverse environmental impacts (e.g., air emissions, water consumption, toxic effluents and thermal emissions, by-product wastes, significant infrastructure needs and related land use impacts, visual impacts, noise impacts, traffic impacts, and health impacts), and socioeconomic effects (e.g., decreased energy diversity and reliability, fluctuating and increased consumer costs, and uncertainties regarding the ability to meet increasing energy demands).

The Towns agree that the macro-level benefits of the Project are important, but also note the significance of their local benefits. Under the No-Project Alternative, the impacts of the Project would be avoided, but the very considerable positive aspects of the Project would also be lost. These local benefits include the economic benefits to local farmers and other landowners who will derive income from the Project, and the school districts, fire districts, Clinton County and the Towns that will receive tax and non-tax revenues. Moreover, the Towns believe that the potential environmental impacts of the Project are largely benign and can be mitigated. While the turbines will be visible across a large area, the Town Boards do not find

that alone creates an unacceptable negative impact. Potential noise and other concerns are mitigated by setbacks imposed by the Wind Energy Facilities Laws of the Towns and the individual turbine locations ultimately selected. Most other impacts are limited to the construction period, and can be adequately mitigated. On the other hand, substantial benefits will accrue over the life of the facilities. The Towns believe the Project Benefits strongly outweigh the negatives, and thus reject the No-Action Alternative.

#### Alternative Construction Phasing

Construction phasing over an approximately one-year period is proposed as a mitigation measure to limit construction-related impacts by keeping the period of the construction impact on the community as short as possible without creating an extreme overload on local resources. Transportation, construction noise, dust generation, and other impacts would thus be reduced to only one or two construction seasons. Marble River believes a one-year construction plan is preferable from both an environmental impact and a construction logistics perspective, and the Towns concur.

#### Alternative Substation Site Selection

One of the primary criteria used in siting the Project was the ability to get power from the turbines onto the electrical grid. The only viable connection to the grid from the proposed Project Area is the 230 kV transmission line owned by the New York Power Authority that runs between Willis and Plattsburgh, New York. Criteria used in substation selection included the ability to use one substation for the entire Marble River project, minimum views of the substations, avoiding environmentally sensitive areas, and distance from residences. The proposed substation is located on parcels satisfying each of these conditions. Lastly, the most

important criteria supporting the proposed location for the Marble River substation is the fact that the New York Power Authority has approved the location as one that satisfies their safety standards and interconnection protocol. The Towns are not aware of any other sites along the power line under the control of the Applicant which meet these criteria.

### Alternative Design

The Towns have considered whether smaller turbine sizes - and thus reduced height in towers - was a valid alternative to the proposed Project. The wind industry is generally moving toward the use of larger wind turbine generators because they are more cost-effective when compared with smaller machines. While smaller turbines are available, a significantly larger number of turbines would be required to produce comparable amounts of power from smaller turbines. To maintain an equivalent level of power generation, more of the smaller turbines would be required. This would have the environmentally negative effect of increasing disturbance of soils, loss of agricultural land, vegetation, and wetland and water resources as the number of towers and the length of required access roads and interconnects increases. Potential operational impacts (e.g., noise and avian mortality) would also likely increase with a larger number of smaller machines. In terms of visibility and visual impact, while smaller turbines might be marginally less visible from certain locations, higher blade speed, higher wind park density, and a greater number of smaller wind turbines could actually increase the Project's visual impact. Use of a shorter tower would substantially increase the cost of turbine maintenance due to higher wind turbulence in the blade area.

Accordingly, the Towns believe that a substitution of more towers with smaller turbines is neither an environmentally less damaging alternative nor in the Towns' best interest

because of the likely potential of actually increasing adverse impacts. The potential reduction in visual impacts from distant settings is not in itself a sufficient justification for further consideration of this alternative.

#### Alternative Project Size (Number of Towers)

The Towns considered reducing the number of allowable towers. The primary benefit would be in the case of visual impact, but the removal or relocation of one or two individual turbines, or even a dozen or two dozen, from a 109-turbine plan does not result in a significant change in Project visibility and visual impact from most locations. It would however reduce financial and environmental benefits related to use of renewable energy resources. The Towns specifically note three areas where the Applicant acted on specific guidance from the Town's as well as commenting agencies:

- The Town Board of Clinton suggested a preference for Marble River to focus its development activities in the northeastern portion of the project. Subsequently, Marble River sited almost half of the proposed turbines within Clinton in the Northeastern portion of the project Area. (East of Rte. 189 and North of Clinton Mills).
- The Towns of Clinton and Ellenburg both suggested a preference for all proposed overhead lines to be hidden from public view and generally sited away from Public ROW's. Subsequently, Marble River sited the proposed overhead line (running from Soucia Road southwest to the Patnode Substation) away from public view

except where necessary to cross public roads (Clinton Mills, LaFrancis Road, Route 11 and Gagnier Road in Clinton).

- The original Marble River layout (DEIS) included 14 turbines sited in existing wetland resources. Subsequent to the DEIS comment period, the Applicant removed all turbine sites that created permanent wetland impact. All proposed Marble River turbine locations are sited to avoid permanent wetland impact.

The Towns believe the final proposed project layout results in a carefully achieved balance of energy production and environmental protection. The Towns do not find any evidence that reducing the scale of the Project will provide significant reduction in impacts, and therefore reject this alternative.

### **CERTIFICATION**

The respective members of the Town Boards of Clinton and Ellenburg and their legal and technical consultants collectively have spent hundreds of hours in the review of the Draft, Supplemental and Final Environmental Impact Statements and accompanying permit applications. For the Town Board members, this began before any applications were even filed, with visits to windfarms around the State, and numerous interviews with windfarm neighbors. During the application review over the last several months, the Town Boards have reviewed hundreds of pages of written submissions and received hours of oral comments. They have carefully reviewed, questioned and analyzed with the Towns' environmental and legal consultants, the various impacts of, alternatives to and potential mitigation measures for the respective Projects.

The Town Boards have relied upon numerous experts and State agencies in their review. While the Towns recognize that qualified experts on any topics may differ in their conclusions, and in particular, may differ in the judgments employed during analysis particularly on such subjective matters as visual or aesthetic impacts, the Towns note their experts were not contradicted on any significant point during the review. The Town Boards also understand that while wind energy projects are a developing industry in those areas in New York State bestowed with wind resources, and that opinions vary widely over the advantages and disadvantages of this new form of energy production, the Towns have been careful to make their decision based on true, documented benefits and impacts.

Members of the Town Boards are familiar with areas of the respective Towns where Project elements will be sited as well as areas surrounding the Project sites. They recognize the Project will have region-wide impacts. Thus, at all times in the process the Towns have acted cooperatively in assessing all aspects of the proposals.

Based on their significant review, and their work with the applicant, the Town Boards believe that the potential significant adverse environmental impacts have been either avoided or mitigated to the maximum extent practicable as outlined in earlier sections of these Findings. The individual corporate sponsors of the Marble River Project in the Towns have been flexible in their design, seeking to avoid impacts wherever possible, and agreeing to reasonable mitigating conditions that affect both construction and operation identified by the Towns, their consultants, as well as other agencies and members of the public.

The Towns also note that while the public benefits from the Project achieve important State and federal policies promoting clean, renewable energy sources, there are very

real local benefits in the form of increased revenues for both the municipalities, schools, and local farmers, as more fully outlined in the Public Benefits section of these Findings. The children of the community will especially benefit from the Towns' negotiation of benefits in the form of PILOT payments to the school districts.

The Town Boards fully acknowledge that visual impact of the wind generating facilities are an unavoidable adverse impact associated with the siting of any large-scale commercial wind farm. The FEIS fully evaluates the extent of these impacts, including the cumulative effects of not only the Marble River Project, but of three other proposed wind parks within the County. The members of the respective Town Boards have reviewed the various visual simulations with a keen understanding of the local setting and the largely agricultural uses affected by the presence of 109 wind turbines and associated power lines spread across several thousand acres.

On balance, and after careful consideration of all relevant documentation and comments, the respective Town Boards believe that they have more than adequate information to evaluate all of the benefits and potential impacts of these Projects individually, and cumulatively, as a basis for considering the pending permit applications and associated agreements necessary to bring this Project to fruition.

Therefore, in accordance with 6 NYCRR § 617.11, SEQRA's required balancing of potential for significant adverse environmental impacts against social, economic and other essential considerations, the Town Boards hereby certify:

1. They have fully considered the relevant environmental impacts, facts and conclusions disclosed in the joint Final Environmental Impact Statement prepared for the Marble River;

2. They have weighed and balanced the relevant environmental impacts with social, economic and other essential considerations;

3. They have provided in these Findings the rationale for the Town Boards' respective decisions to approve issuance of the pending permit applications and to authorize the respective Supervisors to enter into the several agreements identified in these Findings

4. That the requirements of 6 NYCRR Part 617 have been met, including the preparation and adoption of the DEIS and FEIS and these Findings; and

That consistent with social, economic and other essential considerations from among the reasonable alternatives available, respective Town approval actions will avoid or minimize adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporation as conditions to the permits or agreements, those mitigating measures which were identified as practicable.

CERTIFICATION SIGNATURES OF EACH TOWN ARE  
ATTACHED





Town of Ellenburg

  
\_\_\_\_\_  
Signature of Responsible Official  
Supervisor  
\_\_\_\_\_  
Title of Responsible Official

James McNeil  
\_\_\_\_\_  
Name of Responsible Official  
April 15, 2008  
\_\_\_\_\_  
Date

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