

New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources
New York Natural Heritage Program
625 Broadway, 5th floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • FAX: (518) 402-8925



January 30, 2007

Richard Delahunty
Tetra Tech, Inc
1000 the American Road
Morris Plains, NJ 07950

Dear Mr. Delahunty:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to an Environmental Assessment for the proposed Marble River Wind Farm, area as indicated on the map you provided, located in the Towns of Clinton and Ellenburg, Clinton County.

Enclosed is a report of rare or state-listed animals and plants, significant natural communities, and other significant habitats, which our databases indicate occur, or may occur, on your site or in the immediate vicinity of your site. The information contained in this report is considered sensitive and should not be released to the public without permission from the New York Natural Heritage Program.

PLEASE NOTE: For Windpower Projects, we report all records found within the project boundary, and any avian records that may be located within a 10-mile buffer of the project boundary. We also report Indiana bat hibernaculum that may be located within a 40-mile buffer of the project boundary.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, at the enclosed address.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our databases. We cannot provide a definitive statement on presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental impact assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

Sincerely,


Tara Seoane, Information Services
NY Natural Heritage Program

Enc.

cc: Reg. 5, Wildlife Mgr.
Rudyard Edick, Environmental Permits, Albany
Mark Wothal, Bureau of Habitats, Albany

Natural Heritage Report on Rare Species and Ecological Communities

NY Natural Heritage Program, NYS DEC, 625 Broadway, 5th Floor, Albany, NY
12233-4757
(518) 402-8935

-This report contains **SENSITIVE** information that should not be released to the public without permission from the NY Natural Heritage Program.
-Refer to the User's Guide for explanations of codes, ranks and fields.
-Location maps for certain species and communities may not be provided 1) if the species is vulnerable to disturbance, 2) if the location and/or extent is not precisely known, 3) if the location and/or extent is too large to display, and/or 4) if the animal is listed as Endangered or Threatened by New York State.

Natural Heritage Report on Rare Species and Ecological Communities

BIRDS

Catharus bicknelli

Bicknell's Thrush	NY Legal Status: Special Concern Federal Listing: Last Report: 2000-06-23 County: Clinton Town: Dannemora Location: Lyon Mountain General Quality and Habitat: The birds were found in an area covered with stunted fir and some stunted white birch.	NYS Rank: S2S3B - Imperiled Global Rank: G4 - Apparently secure EO Rank: Extant	Office Use 11227 ESU
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Gavia immer

Common Loon	NY Legal Status: Special Concern Federal Listing: Last Report: 2004 County: Clinton Town: Dannemora Location: Chazy Lake General Quality and Habitat: The rank is based on a comparison to other sites within New York State. The loons have been found in a lake.	NYS Rank: S3 - Vulnerable Global Rank: G5 - Demonstrably secure EO Rank: Fair or Poor	Office Use 11730 ESU
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Gavia immer

Common Loon	NY Legal Status: Special Concern Federal Listing: Last Report: 2004 County: Clinton Town: Dannemora, Ellenburg Location: Upper Chateaugay Lake General Quality and Habitat: The rank is based on a comparison to other sites within New York State. The loons were observed on a lake.	NYS Rank: S3 - Vulnerable Global Rank: G5 - Demonstrably secure EO Rank: Fair or Poor	Office Use 7477 ESU
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3 Records Processed

These bird occurrences are within 10 miles of the project site.

Natural Heritage Report on Rare Species

NY Natural Heritage Program, NYS DEC, 625 Broadway, 5th Floor, Albany, NY
12233-4757
(518) 402-8935

-This report contains **SENSITIVE** information that should not be released to the public without permission from the NY Natural Heritage Program.
-Refer to the User's Guide for explanations of codes, ranks and fields.
-We do not provide maps for species most vulnerable to disturbance.

Natural Heritage Report on Rare Species and Ecological Communities

MAMMALS

Myotis leibii
Eastern Small-footed Myotis

NY Legal Status: Special Concern

NYS Rank: S2 - Imperiled

Office Use
9518

Federal Listing:

Global Rank: G3 - Vulnerable

SC

County: Clinton

Town: Ausable

Location: Documented beyond the boundaries of the project site. For information on the population at this location and management considerations, please contact the NYS DEC Regional Wildlife Manager for the Region where the project is located, or the NYS DEC Endangered Species Unit at 518-402-8859.

Myotis leibii
Eastern Small-footed Myotis

NY Legal Status: Special Concern

NYS Rank: S2 - Imperiled

Office Use
6425

Federal Listing:

Global Rank: G3 - Vulnerable

SC

County: Clinton

Town: Ausable

Location: Documented beyond the boundaries of the project site. For information on the population at this location and management considerations, please contact the NYS DEC Regional Wildlife Manager for the Region where the project is located, or the NYS DEC Endangered Species Unit at 518-402-8859.

OTHER

Bat Colony

NY Legal Status: Unlisted

NYS Rank: SNR - Rank not assigned

Office Use
8748

Federal Listing:

Global Rank: GNR - Not ranked

S

County: Franklin

Town: Bellmont

Location: Documented beyond the boundaries of the project site. For information on the population at this location and management considerations, please contact the NYS DEC Regional Wildlife Manager for the Region where the project is located, or the NYS DEC Endangered Species Unit at 518-402-8859.

Bat Colony

NY Legal Status: Unlisted

NYS Rank: SNR - Rank not assigned

Office Use
9246

Federal Listing:

Global Rank: GNR - Not ranked

SC

County: Clinton

Town: Ausable

Location: Documented beyond the boundaries of the project site. For information on the population at this location and management considerations, please contact the NYS DEC Regional Wildlife Manager for the Region where the project is located, or the NYS DEC Endangered Species Unit at 518-402-8859.

These bat occurrences are within 40 miles of the project site.

Natural Heritage Report on Rare Species and Ecological Communities



Bat Colony

NY Legal Status: Unlisted

NYS Rank: SNR - Rank not assigned

Office Use

Federal Listing:

5816

County: Clinton

Global Rank: GNR - Not ranked

SC

Town: Ausable

Location: Documented beyond the boundaries of the project site. For information on the population at this location and management considerations, please contact the NYS DEC Regional Wildlife Manager for the Region where the project is located, or the NYS DEC Endangered Species Unit at 518-402-8859.

5 Records Processed

These bat occurrences are within 40 miles of the project site.



Engineers
Scientists
Consultants

June 26, 2007

Mr. John A. Bonafide
Historic Preservation Services Coordinator
New York State
Office of Parks Recreation and Historic Preservation
Field Services Bureau
Peebles Island, P.O. Box 189
Waterford, New York 12188-0189

401 Wampanoag Trail
Suite 400
East Providence
Rhode Island
02915
p 401.434.5560
f 401.434.8158

**Re: *Submission of Phase IB Archeological Survey &
Historic Architectural Resources Survey
Marble River Wind Farm
Towns of Clinton and Ellenburg
Clinton County, New York
ESS Project No. A456-006.2***

Dear Mr. Bonafide:

On behalf of Marble River LLC, enclosed please find the *Phase IB Archeological Survey* and the *Historic Architectural Resources Survey* for the Marble River Wind Farm report prepared by John Milner Associates, Inc. (JMA), for review and comment by the New York State Historic Preservation Office. The proposed Marble River Wind Project is being evaluated under the New York State Environmental Quality Review Act (SEQRA) and also will require a permit from the U.S. Army Corps of Engineers, so review under Section 106 of the National Historic Preservation Act, as amended, is needed.

We look forward to the Office of Parks Recreation and Historic Preservation's comments on the enclosed reports. Should you or your staff have any questions, please feel free to contact me at 401-330-1206 or swood@essgroup.com.

Sincerely,

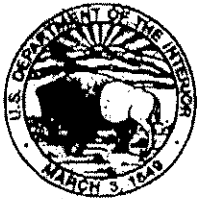
ESS GROUP, INC.

Steve Wood
Vice President, Energy & Industrial Services

Enclosures: *Phase IB Archeology Survey* and *Historic Architectural Resources Survey* by JMA

C: Mr. Patrick Doyle, Horizon Wind Energy
Mr. Charlie Turlinski, Horizon Wind Energy
Mr. Patrick J. Heaton, JMA (w/o enclosure)
Ms. Sarah Faldetta, ESS Group MA





United States Department of the Interior



FISH AND WILDLIFE SERVICE

New York Field Office

3817 Luker Road

Cortland, NY 13045

Phone: (607) 753-9334 Fax: (607) 753-9699

<http://www.fws.gov/northeast/nyfo>

Project Number: 70339

To: Richard Delahunty Date: 3-14-07

Regarding: Marble River Wind Farm

Town/County: Towns of Clinton & Ellenburg / Clinton

We have received your request for information regarding occurrences of Federally-listed threatened and endangered species within the vicinity of the above-referenced project/property. Due to increasing workload and reduction of staff, we are no longer able to reply to endangered species list requests in a timely manner. In an effort to streamline project reviews, we are shifting the majority of species list requests to our website at <http://www.fws.gov/northeast/nyfo/es/section7.htm>. Please go to our website and print the appropriate portions of our county list of endangered, threatened, proposed, and candidate species, and the official list request response. Step-by-step instructions are found on our website.

As a reminder, Section 9 of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) prohibits unauthorized taking* of listed species and applies to Federal and non-Federal activities. Additionally, endangered species and their habitats are protected by Section 7(a)(2) of the ESA, which requires Federal agencies, in consultation with the U.S. Fish and Wildlife Service (Service), to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. An assessment of the potential direct, indirect, and cumulative impacts is required for all Federal actions that may affect listed species. For projects not authorized, funded, or carried out by a Federal agency, consultation with the Service pursuant to Section 7(a)(2) of the ESA is not required. However, no person is authorized to "take"* any listed species without appropriate authorizations from the Service. Therefore, we provide technical assistance to individuals and agencies to assist with project planning to avoid the potential for "take," or when appropriate, to provide assistance with their application for an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA.

Project construction or implementation should not commence until all requirements of the ESA have been fulfilled. If you have any questions or require further assistance regarding threatened or endangered species, please contact the Endangered Species Program at (607) 753-9334. Please refer to the above document control number in any future correspondence.

Endangered Species Biologist: Robyn A. Niver RA N

*Under the Act and regulations, it is illegal for any person subject to the jurisdiction of the United States to *take* (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species and most threatened fish and wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. "Harm" includes any act which actually kills or injures fish or wildlife, and case law has clarified that such acts may include significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife.



United States Department of the Interior

FISH AND WILDLIFE SERVICE



New York Field Office
3817 Luker Road, Cortland, NY 13045
Phone: (607) 753-9334
Fax: (607) 753-9699

Long Island Field Office
3 Old Barto Rd., Brookhaven, NY 11719
Phone: (631) 776-1401
Fax: (631) 776-1405

Endangered Species Act List Request Response Cover Sheet

This cover sheet is provided in response to a search of our website* for information regarding the potential presence of species under jurisdiction of the U.S. Fish and Wildlife Service (Service) within a proposed project area.

Attached is a copy of the New York State County List of Threatened, Endangered, and Candidate Species for the appropriate county(ies). The database that we use to respond to list requests was developed primarily to assist Federal agencies that are consulting with us under Section 7(a)(2) of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*). Our lists include all Federally-listed, proposed, and candidate species known to occur, as well as those likely to occur, in specific counties.

The attached information is designed to assist project sponsors or applicants through the process of determining whether a Federally-listed, proposed, or candidate species and/or "critical habitat" may occur within their proposed project area and when it is appropriate to contact our offices for additional coordination or consultation. You may be aware that our offices have provided much of this information in the past in project-specific letters. However, due to increasing project review workloads and decreasing staff, we are now providing as much information as possible through our website. We encourage anyone requesting species list information to print out all materials used in any analyses of effects on listed, proposed, or candidate species.

The Service routinely updates this database as species are proposed, listed, and delisted, or as we obtain new biological information or specific presence/absence information for listed species. If project proponents coordinate with the Service to address proposed and candidate species in early stages of planning, this should not be a problem if these species are eventually listed. However, we recommend that both project proponents and reviewing agencies retrieve from our online database an *updated* list every 90 days to append to this document to ensure that listed species presence/absence information for the proposed project is *current*.

Reminder: Section 9 of the ESA prohibits unauthorized taking** of listed species and applies to Federal and non-Federal activities. For projects not authorized, funded, or carried out by a Federal agency, consultation with the Service pursuant to Section 7(a)(2) of the ESA is not required. However, no person is authorized to "take**" any listed species without appropriate authorizations from the Service. Therefore, we provide technical assistance to individuals and agencies to assist with project planning to avoid the potential for "take**," or when appropriate, to provide assistance with their application for an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA.

Additionally, endangered species and their habitats are protected by Section 7(a)(2) of the ESA, which requires Federal agencies, in consultation with the Service, to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. An assessment of the potential direct, indirect, and cumulative impacts is required for all Federal actions that may affect listed species.

For instance, work in certain waters of the United States, including wetlands and streams, may require a permit from the U.S. Army Corps of Engineers (Corps). If a permit is required, in reviewing the application pursuant to the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*), the Service may concur, with or without recommending additional permit conditions, or recommend denial of the permit depending upon potential adverse impacts on fish and wildlife resources associated with project construction or implementation. The need for a Corps permit may be determined by contacting the appropriate Corps office(s).*

For additional information on fish and wildlife resources or State-listed species, we suggest contacting the appropriate New York State Department of Environmental Conservation regional office(s) and the New York Natural Heritage Program Information Services.*

Since wetlands, ponds, streams, or open or sheltered coastal waters may be present in the project area, it may be helpful to utilize the National Wetlands Inventory (NWI) maps as an initial screening tool. However, they may or may not be available for the project area. Please note that while the NWI maps are reasonably accurate, they should not be used in lieu of field surveys for determining the presence of wetlands or delineating wetland boundaries for Federal regulatory purposes. Online information on the NWI program and digital data can be downloaded from Wetlands Mapper, http://wetlands.fws.gov/mapper_tool.htm.

Project construction or implementation should not commence until all requirements of the ESA have been fulfilled. After reviewing our website and following the steps outlined, we encourage both project proponents and reviewing agencies to contact our office to determine whether an accurate determination of species impacts has been made. If there are any questions about our county lists or agency or project proponent responsibilities under the ESA, please contact the New York or Long Island Field Office Endangered Species Program at the numbers listed above.

Attachment (county list of species)

*Additional information referred to above may be found on our website at:
<http://www.fws.gov/northeast/nyfo/es/section7.htm>

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Clinton County

Federally Listed Endangered and Threatened Species and Candidate Species

This list represents the best available information regarding known or likely County occurrences of Federally-listed and candidate species and is subject to change as new information becomes available.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
Bald eagle	<i>Haliaeetus leucocephalus</i>	T
Indiana bat (S)	<i>Myotis sodalis</i>	E

E=Endangered T=Threatened P=Proposed C=Candidate

W=Winter S=Summer

Information current as of: 3/14/2007