

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the Application
for permits pursuant to the Environmental
Conservation Law (ECL) (Article 24, Freshwater
Wetlands; Article 17, State Pollutant Discharge
Elimination System [SPDES]; Part 201, *et seq.*
of Title 6 of the New York Compilation of Codes, Rules,
and Regulations [6 NYCRR]; and for a Water
Quality Certification pursuant to Section 401 of the
Clean Water Act) to Construct and Operate
a Natural Gas Power Plant (1,000 megawatts)
Located in Dover, New York

- by -

CRICKET VALLEY ENERGY CENTER, LLC,

Applicant.

HEARING REPORT

/s/

Helene G. Goldberger,
Administrative Law Judge

June 30, 2011

Background and Project Description

Cricket Valley Energy Center, LLC (CVE) has applied to the New York State Department of Environmental Conservation (DEC or Department) for permits to construct and operate a 1,000 megawatt (MW) power plant that will be fueled by natural gas and is to be located on Route 22 in the Town of Dover, New York. CVE has applied for air permits (pursuant to Part 201, *et seq.* of 6 NYCRR and Article 19 of the ECL), a freshwater wetlands permit (Article 24 of the ECL), a water quality certification (Section 401 of the Clean Water Act) and a state pollutant discharge elimination system (SPDES) permit (Article 17 of the ECL) for coverage under the general permit for storm water discharges from construction activities.

Pursuant to the State Environmental Quality Review Act (SEQRA), on May 5, 2010, the Department staff, acting for DEC as lead agency, issued a positive declaration and on May 25, 2011, staff made a completeness determination and issued a notice of complete application combined with a notice of hearing. Pursuant to Part 621 of 6 NYCRR, the notice invited the public to comment on the draft environmental impact statement (DEIS) and the permit applications in writing (until July 25, 2011)¹ or in person at one of two comment sessions to be held on June 28, 2011, or both. The staff requested that an administrative law judge preside at the hearing and Chief Administrative Law Judge (ALJ) James T. McClymonds assigned this matter to me on May 9, 2011.

The hearing notice was published in the May 25, 2011 editions of the *Environmental Notice Bulletin* and the *Poughkeepsie Journal*.

Public Hearing

As per the hearing notice, the public hearing sessions were convened on June 28, 2011 at 3:00 p.m. and at 6:00 p.m. at the Dover Middle School on Route 22 in Dover, New York. Prior to each hearing session, CVE held a public information session at the same location where CVE representatives as well as Department staff were available to answer questions.

The afternoon hearing session was attended by about 30 individuals, including DEC staff and CVE representatives. Approximately 50 people attended the evening session. At the afternoon hearing, nine people spoke and at the evening session there were 11 commenters. At each session, in addition to the members of the public who spoke, DEC Environmental Analyst II Stephen Tomasik provided an explanation of the SEQRA process as well as the individual permit application review process for the CVE project. After Mr. Tomasik spoke, Fred Sellars of Arcadis, the applicant's consultant that prepared the DEIS, provided an overview of the project.

The Town Supervisor of Dover, Ryan Courtien, spoke at both hearing sessions. Supervisor Courtien noted that the Town also had a permitting process and was intending to hold a public hearing on a Saturday in July. The transcribed comments from this hearing session will be submitted to DEC and made part of the Department's record.

¹ In response to requests from the public, the Department staff extended the comment period to August 1, 2011.

Dutchess County Legislator Allan Surman spoke at the afternoon session and described his opinions about the project as “mixed.” Legislator Surman explained that we were all guilty of demanding power and that there were few ways to generate electricity economically or safely. He characterized the project as one of “trade-offs.” He suggested that the walls of the power plant should be strengthened to avoid impacts to the railroad or the town. He stated that the tax benefits would be substantial but he had concerns about the air issues because of the site being situated in a valley. He suggested a fund be established for window breakage and for downturns in property values. He ended his comments by stating that he was guardedly in favor of the project.

William Sena is a resident on top of a hill with 100 homes in his neighborhood. His main concern is that there might be odors emanating from the plant that would make it undesirable to live near the facility. He also raised concerns about traffic safety due to portions of Route 22 where there are “blind” spots and the potential for discharge of “hazardous” water.

Donald Dedrick who has lived in Dover for 67 years expressed his support for the project but wanted to know if the plant will result in a reduction of electric rates.

Lorraine O’Neil who is a Town Board member spoke at both sessions. She urged DEC to hold a Saturday session. In addition, Ms. O’Neil’s noted her concern about the facility’s effect on air quality. She advised that the facility would not benefit the residents of Dover because the electricity would go to Putnam Valley and then to New York City.

Brigid Casson suggested that parking for the construction workers should be located on both ends of the town. She had concerns about heat generated by the plant and its effect on the river. Ms. Casson recommended strongly that the design of the facility incorporate a green roof.

Peg Day commented at both sessions and also urged a Saturday session. Ms. Day stressed that many residents worked in New York City and do not get home in time for a hearing on a weekday. She inquired as to what the facility would emit and asked whether methane would be released.

Jessica Abrams spoke at both sessions and advocated that the consideration of a fossil fueled facility was not an environmentally wise decision. She stated that there were clean domestic alternatives and urged everyone to wake up. Ms. Abrams stated that clean air and water were essential resources that must be protected.

Elana Nielsen was the last speaker in the afternoon session and inquired as to the source of the gas that will fuel the plant. She compared the height of the stacks to those that were proposed in the St. Lawrence Cement application and stated that they would be the tallest structures between Dover and New York City. Ms. Nielsen raised a concern about any plumes and inquired as to how many of the positions at the facility would be local.

The remaining speakers spoke in the evening session. Cate Wilson, a resident of Wingdale, commented that the DEIS was a very lengthy document on a complex subject that required a lengthier review period. She suggested that an additional 1-2 month period was

needed. Ms. Wilson expressed concerns regarding noise, traffic and emissions. She said that she was located at the southern boundary of the property and understood that the noise levels generated by the facility would not comply with the Town's noise ordinance and CVE was seeking to have the requirements changed. Ms. Wilson expressed concerns about this new source of air emissions that would require the purchase of air emission credits and questioned how this would result in an improvement in air quality. She stated that currently the area was relatively pristine.

Tonia Shoumatoff is the Watershed Manager for the Housatonic Valley Association. She expressed support for CVE's expressed plans to conserve the area west of the railroad tracks, which she identified as relatively pristine. Ms. Shoumatoff urged that the meteorological data used for the air studies be based on local climatological information because of the unique formation of the valley. She expressed support for the water conservation measures put forward by CVE but commented that though water withdrawals should not affect local residents, future wells will be added and therefore a cumulative study of withdrawal impacts was needed. Ms. Shoumatoff asked that the appendix to the DEIS be labeled with the title of each subject for easier access.

Christine Bleakley is concerned about any hazardous materials that would be stored in the parking area and what the design of the parking area will be. She questioned how traffic on the surrounding roads would be affected. Ms. Bleakley stated that the project information should be sent to all the surrounding towns. She inquired about the emergency systems that will be put in place and the training that will be given to react to any emergency situation. The other topics she listed were noise, air quality, archaeology, and impacts to school children.

Tamara Wade asked for a Saturday hearing so that more people could attend. She questioned the purpose of the CVE facility. Ms. Wade stated that more time was needed to research and question the environmental issues and weigh the options as to what is best for everyone.

Peter Rostenburg expressed his respect for New York State's environmental laws. He stated that he had examined the maps of the watershed and noted that the water from the Swamp River wound up in Connecticut and that it was a mistake to limit analysis to State impacts. Similarly, he commented that air impacts are also not limited by state boundaries. Mr. Rostenburg stated that the community needed a newspaper. Citing Bob Boyle, he advocated that the biggest threat to water quality currently was hydraulic fracturing and that gas coming to this facility could be sourced from wells that were hydraulically fracked.

Jessica Wade, a recent college graduate, lives near the proposed plant with her family and had many concerns about the facility stemming principally from the issue of hydrofracturing. She stated that she understands that energy is needed but questioned whether this facility is the "right way?"

Jim Utter expressed his concerns about effects to the swamp. He was glad to see plans to clean up the site, which he described as having a legacy of polluters. Mr. Utter expressed support for CVE's plans that decreased the water usage and lacked discharges. However, he

raised concerns about Dover Knolls' proposed usage of 1 million gallons per day and how that amount of withdrawal combined with CVE's activities would affect the water supply. He suggested that the Town of Dover consider where it seeks to be in 25 years. He noted that fossil fuels cannot be burned without polluting.

Mr. Utter was the last individual who asked to speak and after he concluded his remarks the hearing was adjourned at approximately 7:30 p.m.