



## Bill and Susan Morehouse

P.O. Box 122, Beechner Road  
Cohocton, New York 14826

February 14, 2007

Raymond Schrader, Chairman  
Town of Cohocton Planning Board  
c/o Sandra Riley, Town Clerk  
15 South Main Street  
Cohocton, New York 14826

Dear Chairman Schrader and Board Members,

We are writing in response to the Planning Board's request for public input about two initiatives that are currently before the Board for review – the Lent/Pine Hill Supplemental Draft Environmental Impact Statement (SDEIS) and Dutch Hill Draft Environmental Impact Statement (DEIS), both recently submitted by the UPC Wind corporation.

Last month I (Bill) appeared before the Planning Board at the public hearing scheduled for review of these initiatives and offered some preliminary observations. It was noteworthy to me that the developer was given the first and longest opportunity to speak. In his professional Power Point presentation, with screen and projector provided and in place, Chris Swartley talked about a timeline for implementation that clearly presumed upon your Board's unconditional acceptance and approval of the materials being brought before the public for review. I would encourage you, as stewards of a public trust, to take your oversight very seriously by considering and weighing all of the carefully researched information submitted to you by area residents and landowners before making any recommendations to the developer. As you know, your first loyalty is to all of the citizens of Cohocton, not just those who stand to profit from this venture.

A similar issue raised by the January 19<sup>th</sup> hearing (and subsequent public discussion in the form of articles published in *The Valley News*) is the matter of process. Were local citizens rowdy or lively, rude or forthright, off the mark or focused on the subject material? Please do not be put off by unfair characterizations of honest input from concerned citizens. There are far more members of our community who are seriously dismayed by the tactics of an aggressive developer than its supporters would lead you to believe.

The comments we are submitting today, like the SDEIS, should be considered supplementary to those we submitted to Sandor Fox in June 2006 (responding to UPC Wind's original DEIS and the draft version of Local Law #2 that was before

the Board at the time) and are divided into three main sections, the first of which revisits the final version of Local Law #2 which was passed by the Town Board late last fall, followed by particular notations about the SDEIS and DEIS.

Underneath all of this specific commentary lies a nagging question: what if it could be clearly demonstrated that wind turbines do not actually displace conventional generating capacity and therefore have negligible impact on greenhouse gas production and global warming? If this were so, would we still be interested in going ahead as a community with the proposed project? For extensive supporting information that addresses this issue among many others, please visit the website and ongoing "Updates" section that we maintain online at [www.cohoctonfree.com](http://www.cohoctonfree.com).

Thank you for your interest in the future of our Town and your receptivity to the thoughtful input of its citizens.

Sincerely yours,

A handwritten signature in black ink that reads "Bill + Susan". The signature is written in a cursive, flowing style.

Enclosures:

Comments on Local Law #2, the Lent/Pine Hill SDEIS, and new Dutch Hill DEIS  
Letter to J. T. Watkins on Noise Levels, January 27, 2007  
Article "Less for More" by Jon Boone, December 2006

# Comments on Local Law #2, SDEIS and DEIS

by Bill and Susan Morehouse

## I - Town of Cohocton Local (Windmill) Law #2, 2006

### Background

In January 2006, in response to overtures made by UPC Wind and in coordination with them but without significant publicity to or input from the community, the Cohocton Town Board passed Windmill Law #1. When this Law was challenged by an Article 78 action in May, the response of the Town Board was withdraw the first Law and replace it with a new version, Local Law #2 (LL2), with legal guidance provided by the developer's lawyer. The Town Board passed this second version in late 2006.

### Our Observations

A) LL2 was clearly written with the best interests of the developer in mind and remains inadequate to protect the interests of Town residents who live near potential turbine sites. This is true throughout the Law, but we will focus again on three areas – noise levels, remediation of infractions, and loss coverage.

1. Residential noise levels are limited in LL2 to windmill only noise of 50 dBA at non-project property lines (525' from the base of each tower) and windmill only noise of 45 dBA at existing residences located on non-project parcels (1500'). These limits are unreasonably high. They also unfairly encroach upon the boundaries of non-project parcels by allowing sound levels that would be unacceptable for dwellings, thus limiting future land use. In our June 2006 comments we referenced a rigorous scientific study done in Sweden in 2002 that documented the annoyance produced by wind turbines in nearby residents at different sound levels. They noted, "The annoyance increased with increasing sound pressure levels exceeding 35 dBA. No respondent stated themselves 'very annoyed' at sound pressure levels below 32.5 dBA. At sound pressure levels in the range of 37.5 to 40.0 dBA, 20% were very annoyed, and above 40 dBA 36%." Recent experience at UPC Wind's first industrial installation in the continental United States at Mars Hill, Maine, has confirmed serious noise disturbance in spite of sound measurements that apparently fall within UPC's guidelines, indicating a problem with the guidelines themselves.

With documented annoyance or "noisome nuisance" levels as high as these, European countries with greater wind power experience than ours have set much more stringent rural noise limits than those specified in LL2:

Country	Daytime	Night
Denmark	45 dBA	40 dBA
Germany	45 dBA	35 dBA
Netherlands	40 dBA	30 dBA
Sweden	40 dBA	40 dBA

Given that the wind in our area is strongest at night when ambient noise is at its lowest levels, we remain convinced that 30-35 dBA should be the maximum permitted turbine noise level outside homes. And since the large turbines selected by cannot be this quiet at 1500', a reasonable noise ordinance as suggested would require them to be placed farther away from residences, perhaps as much as 2500' or more, rendering the proposed configuration of wind turbines in the current SDEIS completely unacceptable.

2. There are no provisions in Section 1170 for identifying who may declare authoritatively that an offense has occurred nor who will be responsible to pay a fine or correct an offense if the developer or any one of its successors declares bankruptcy.

Since many of the alleged offenses may involve excessive sound levels, there is no provision for mitigation if excessive sound levels are detected that cannot be remedied by modifications to one or more of these \$2 million installed turbine units. Will anyone be empowered to require the developer to remove or relocate the offending units?

3. In spite of our June 2006 recommendation, there continue to be no provisions within LL2 for the assessment, arbitration, or adjudication of legal actions that may result from landowners who have reason to believe that they have suffered losses in use, enjoyment, or resale value of their property.

B) The process of approval for LL2 was not commensurate with the size and scope of the project being considered, nor does it appear to have taken previous Town zoning guidelines and decisions into adequate account. Not surprisingly, it also bypassed the recommendations we made in June 2006, as follows.

1. We noted that landowners with property bordering on leased lands had not been consulted or offered compensatory leases for the effect such a project will have on them. There has been no further action on this observation.
2. We recommended that projects of this magnitude and laws proposing such sweeping changes in local zoning should always be made subject to a binding referendum of the entire Town electorate prior to approval and suggested that the Town Board rescind Local Law #1, defer any further decision in favor of the plan, and reaffirm its confidence in democracy by placing the entire matter before its citizens in last fall's elections. This recommendation was ignored, as was a Moratorium petition signed by over 200 residents.
3. The Town has a clearly defined and established set of zoning guidelines that should have been reviewed thoroughly and taken into authoritative account. This process was handled lightly in the Board's haste to approve LL2.

4. We remain convinced that it was completely inappropriate for the Cohocton Town Board and Planning Board to be guided and represented by lawyers who were hired and paid for by the developer.

C) Local Law #2 assumes that it is in our community's best interest to permit the construction of an industrial wind power plant in the Town. Our research continues to lead us to the opposite conclusion. We believe that the Western New York area, especially within and surrounding the Finger Lakes, is an inappropriate site for wind farm development for several reasons:

1. In contrast to offshore sites, the wind patterns in our region remain less consistent in strength and are predictably strong primarily at night and in the winter, times when demand for electrical power and displacement of power generated by fossil fuel will be at its lowest. The supply and demand nature of the market may even render a portion of the wind power generated unusable on the grid. While an offshore wind turbine may be expected to produce a yield of marketable power during the daytime hours and summer cooling season of up to 40% of its rated capacity, a reasonable estimate for similar turbines mounted in the Finger Lakes region is closer to half of that and possibly even as low as 8-10%.
2. Since the return investors and the Town (in the form of PILOT revenue) have been promised is based on the volume of electricity actually sold on the market, wind turbines in our region can be expected to significantly underproduce equivalent machines in more suitable locations, causing those who have placed their hopes in unrealistically optimistic performance estimates to be seriously disappointed.
3. In addition, New York's Finger Lakes region is most noted for its natural attractiveness as a tourist destination and a place of recreation. Its lakes, hills, villages, working farms, vineyards, and scenic beauty are unparalleled in this area of the world. Many people, seeking respite from the noisy industrial and commercial clatter and clutter of our urban areas, have come and increasingly invested here because they've been drawn by the unspoiled tranquility of the land and the graciousness of its people. The last thing that this growing segment of citizens and landowners wants to witness is the viewscape and soundscape they have invested in overrun by a sprawling and noisy industrial development.
4. There is a unique set of climatic conditions in the Finger Lakes region that predisposes our area to unusual accumulations of ice during winter storms. Recent years have brought at least 2 devastating "ice storms" that have toppled thousands of mature trees and caused substantial and widespread damage. We believe that enormous wind towers, located on hilltops unsheltered from the wind, would be extremely vulnerable to dangerous and expensive failure during any future ice storm. Further research has only underscored this concern.

5. While wind power industrialization of our Town may produce a modest financial benefit for a small number of its landowners, another predictable result will be a significant reduction in the value of its recreational land. Over time, whatever tax gains the Town may receive from PILOT revenues may be more than offset by losses sustained by the drop in recreational and retirement property value.

As a result of these and other observations we strongly believe that, while it may be in our community's best interest to permit the construction of small windmills for the use of individual landowners, our region in general and our community in particular is not suitable for large industrial windmill installations.

## **II - Comments on the Lent/Pine Hill SDEIS**

### Background

The Pine/Hill Supplemental Draft Environmental Impact Statement submitted for review is essentially a follow up of the "Phase I" DEIS originally submitted by UPC Wind in April 2006 and opened to public comment in May and June.

### Our Observations

What is different in the SDEIS? There are many details that depart from the original DEIS, but the primary one has been an increase in the size, output, and noise of the turbines that are being proposed. Minor rearrangements of turbine position have also been identified and approximately 25 turbines in the original DEIS have either been "cancelled" or, much more likely, postponed to a still-unannounced "Phase III" proposal.

A) There are many particulars in the voluminous SDEIS that can be singled out for critical analysis, but the primary take-home observation is that the entire document, for all of its apparently clinical neutrality, remains as remarkably and understandably self-serving and lop-sided in favor of the developer's perspective as was the DEIS that preceded it. That having been said, we would like to focus on the same three impact areas - viewscape, soundscape, and property value – that we addressed in our June 2006 commentary.

1. Visual Impact or Viewscape. The DEIS reluctantly acknowledges that the developer's project may, in some observers' eyes, have a negative visual impact. In response to our concerns and the concerns of many other citizens, UPC Wind did do the following:
  - a. Update the images in the SDEIS to simulate the taller Clipper units. They also produced a set of simulations of towers in settings where they are beside and around human structures like houses, barns, silos, and other buildings. These have been posted online (in Dutch Hill DEIS

reviewed below, however, not in the SDEIS) and are shocking enough to make us wonder whether we would have gotten this far as a community if images like these had been available a year ago.

- b. Produce an animated simulation of towers as they would look to passers-by from Route 390 (again posted in the Dutch Hill DEIS). Apparently there are also some video simulations of how the towers would look at night lit up with flashing aircraft warning lights, but we haven't been able to get these to work yet.
  - c. What remains to happen is the sponsorship of public meetings in which more accurately representative depictions, as noted above, can be examined by the general public, and then conduct a broad-based study asking people to vote on whether they think the installation improves or degrades the viewscape.
2. Auditory Impact or Soundscape. This subject has been discussed to some degree in a previous section of this letter addressing the Local Law #2. The SDEIS revisits this question with an updated report on noise by Hessler Associates (Appendix I). This new set of documents, for all its apparent professionalism, only addresses the change in turbine noise from the Gamesa 2.0 MW units in the original DEIS to the Clipper 2.5 MW units now being proposed. Even though these are at least 1 dB louder, however, Mr. Hessler has managed to obscure the extra dB and still get the bigger turbines into boundaries in LL2 where the Gamesa units just barely "fit". Significant scientific criticism was raised during last year's comment period about Mr. Hessler's deeply-flawed background noise measurements, but his new study does nothing to correct these errors: he merely relies on the same faulty data. The result is another set of recommendations that are at least 10 dB off in favor of the developer and at the expense of neighbors who are being asked to endure the proposed intrusion.

Richard Bolton has recently submitted updated professional analyses of the noise problem and Mr. Hessler's SDEIS/DEIS studies that I have reviewed carefully and endorse completely.

3. The SDEIS contains an extensive paper (Appendix L, by Cushman & Wakefield) addressing the subject of property values. However, diminishment in the real property value of land and dwellings in the *immediate vicinity* of wind turbines is still not addressed by this paper in any quantitative way that relates to our specific real estate environment. Studies in other areas are referenced in which widely aggregated property values are looked at, but local realtors with an intimate knowledge of the dynamics of our market have still not been consulted and polled. *The focused and dramatically negative effect on the holdings of neighboring landowners who purchased recreational and retirement property for its peace, tranquility, and unspoiled view has not been addressed at all.*

### III – Comments on the Dutch Hill DEIS

#### Background

The Dutch Hill Draft Environmental Impact Statement (DEIS) submitted for review is the first full community presentation of what has been referred to as “Phase II” of the proposed Cohocton wind project and outlines plans to install 16 Clipper 2.5 MW turbine towers in the Dutch Hill area. These are in addition to the 36 units proposed in the SDEIS just reviewed but do not include the 25 “cancelled” turbines mentioned above that probably represent “Phase III” of a progressively evolving project. It is interesting to note that a Viewshed Analysis in the SDEIS (Figure 22) depicts three projects, Phase I (Lent/Pine Hill), Phase II (Dutch Hill), and *Prattsburgh*. The separation of these into separate EIS applications is a clear example of illicit segmentation.

#### Our Observations

This DEIS is simply an expansion of the original UPC proposal, reworked to accommodate Clipper 2.5 MW turbines, and repackaged as a “stand-alone” project. The “separate” noise study done by Mr. Hessler contains the very same design flaws as the one he submitted as part of the SDEIS reviewed above. Interestingly, Mr. Hessler collected his background sound and wind speed data for Dutch Hill during the same time period in the fall of 2005 that he was collecting data for the Lent/Pine Hill project, again belying the notion that there are “two” projects here, not just one expanded project. Viewscape simulations in the Dutch Hill DEIS also include turbines in “both” projects. We may have twins, triplets, or even quadruplets here, but it is certainly one pregnancy and should legitimately be labeled and brought before SEQR as such. Therefore, the comments we have submitted in response to the Lent/Pine Hill SDEIS all apply equally to the Dutch Hill DEIS.

### SUMMARY

In conclusion, it is our conviction that Local Law #2 remains sincerely misguided and should be overturned by our Town Board or the courts and replaced by a law that protects the interests of Cohocton’s citizens more carefully.

Should the Planning Board choose to proceed in a direction that remains favorable to the developer we believe they should open the decision-making process to a referendum of the electorate in which residents in the Town are allowed to choose between two alternatives, one that would permit and the other that would prohibit industrial wind turbines.

Thank you very much for taking the time to review and consider our input. If you have any questions, please do not hesitate to contact us.



We certify that the observations and opinions expressed here are entirely the result of our own independent research and not solicited or paid for by any outside entity.

Sincerely yours,

A handwritten signature in black ink that reads "Bill + Susan". The signature is written in a cursive, flowing style.

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