

THIS PERMIT RENEWS AND AMENDS PERMIT 2005-271 ISSUED AUGUST 11, 2006,
PERMIT 2005-271A ISSUED SEPTEMBER 25, 2008 and PERMIT 2005-271R2
ISSUED OCTOBER 16, 2010

THIS IS A TWO SIDED DOCUMENT

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p>APA Project Permit 2005-271R3</p>
<p>In the Matter of the Application of</p> <p>ADIRONDACK WIND PARTNERS, LLC, Applicant BARTON MINES COMPANY, LLC, Landowner and Co-applicant</p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act</p>	<p>Date Issued: October 16, 2012</p> <p>To the County Clerk: This permit must be recorded on or before December 17, 2012. Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none">1. Adirondack Wind Partners, LLC2. Barton Mines Company, LLC

SUMMARY AND AUTHORIZATION

Adirondack Wind Partners, LLC and Barton Mines Company, LLC are granted a renewed and amended permit, on conditions, authorizing continued operation for a two year period of a previously approved meteorological monitoring tower in an area classified Industrial Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Johnsbury, Warren County.

The amended project may not be further undertaken until this permit is recorded in the Warren County Clerk's Office. This permit shall expire unless so recorded on or before December 17, 2012 in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

AGENCY JURISDICTION

The project as originally approved consists of the installation of a meteorological monitoring tower in an Industrial Use land use area, constituting new land use and development requiring prior Agency review pursuant to Condition 6 of Agency Permit 89-535.

PROJECT DESCRIPTION AS PROPOSED

The project as originally proposed was the temporary installation and operation for two years of a 50 meter meteorological monitoring tower as described in Permit 2005-271. Permit amendment 2005-271A involved the continued operation of the meteorological monitoring tower for an additional two year period. The proposal is to continue monitoring wind resources for purposes of "fine tuning" a commercial wind farm proposal to help micro-site turbines (i.e., additional information can result in modifications to projected locations or number or height of or type of turbine model proposed) and to continue collecting data so that project financing can be obtained. The project as currently approved is shown on a plan entitled "Attachment D (3-X)[Rev.] Adirondack Wind Partners, LLC Project Site" prepared by J. McAndrew and dated December 20, 2005 (hereafter referred to as the "site plan"). An Agency staff annotated copy of the site plan is attached as part of this permit.

CONDITIONS

BASED UPON THE FINDINGS BELOW, THE AMENDED PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. All conditions in Permit 2005-271,271A and 271R2 remain in full force and effect unless specifically amended herein.
2. The amended project shall be continued as described in the request for a renewed permit and the "Project Description as Proposed" herein, and in compliance with the Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the applicant, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the permit.
3. This permit is binding on the applicant, all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of Permit 2005-271,271A, 271R2 and this renewed permit and all the approved maps and plans referred to in these permits shall be furnished by the applicant to all contractors prior to undertaking the project, and to all subsequent owners or lessees of the project site

prior to sale or lease. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2005-271 issued August 11, 2006, Permit 2005-271A issued September 28, 2008 and Permit 2005-271R2 issued October 15, 2010, and Permit 2005-271R3 issued October 16, 2012 the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

4. The tower, guy wires anchors and all associated equipment shall be dismantled and removed from the project site by no later than October 30, 2014, unless an amended permit to allow it to remain in place after that date is in effect. The project sponsor shall provide an updated visual assessment of the tower along with any request for such an amendment. No amended permit will be issued absent compliance with the approval criteria set forth in Executive Law Section 809(10) and a clear demonstration that continued monitoring is necessary.

Review of Future Development

5. The installation of any other temporary or permanent meteorological monitoring towers or wind turbines on the project site shall require prior Agency review and approval in the form of a new permit.
6. No further new land use and development shall occur on the project site without first obtaining a jurisdictional determination and, if necessary, a permit from the Agency.

FINDINGS OF FACT

Findings of Fact 1 through 21 are contained in Permit 2005-271 which was issued on August 11, 2006 and recorded on August 29, 2006 in the Warren County Clerk's Office in Book 3028 of APA Permits at Page 236 as Instrument 8997. Findings of Fact 22 through 26 are contained in Permit 2005-271A which was issued on September 28, 2008 and recorded on October 28, 2008 in the Warren County Clerk's Office in Book 3659 of APA Permits at Page 87 as Instrument 9016. Findings of Fact 27 through 33 are contained in Permit 2005-271R2 which was issued on October 15, 2010 and recorded on November 2, 2010 in the Warren County Clerk's Office in Book 4116 of APA Permits at Page 119 as Instrument 7506. The Findings of Fact contained in these permits are incorporated herein by reference and remain in effect.

34. By letter dated August 8, 2012 a request was made by Adirondack Wind Partners, LLC to renew Agency Permit 2005-271R2 for an additional two years.

35. Condition 4 of Agency permit 2005-271R2 required dismantling and removal of the monitoring mast from the project site by no later than October 30, 2012, unless an amended Agency permit to allow it to remain longer is issued by that date based upon a clear and convincing demonstration that continued temporary monitoring is necessary.

Finding of Fact 25 of Agency permit 2005-271A stated that the applicant anticipated submitting an application for an Agency permit for wind turbines in early 2009. However, the economic downturn and unanticipated drop in electricity prices combined to put the development of a commercial wind project on temporary hold. Additionally, Adirondack Wind Partners and Barton Mines, LLC., believed it was imprudent to proceed with the development of a commercial wind farm while laying off 10% off its employees.

In support of their argument that additional monitoring data is required Adirondack Wind Partners provided a letter from a meteorologist consultant stating four reasons why wind monitoring should be continued:

1. Most wind projects are developed by correlating on-site wind measurements to existing long-term reference stations having records of 10 years or longer. Long-term reference stations near Barton Mines are located in valleys, and the measured correlations between Barton Mines and these stations are poor;
2. Collecting additional wind data will help to optimize turbine array plan for maximum energy production. Refinements to wind direction patterns, turbulence, and wind shear can be made with additional information;
3. Financing (loan decisions and terms) for commercial wind farms is based on the predicted long-term average annual energy projections, and the uncertainty of these projections. Additional monitoring will narrow the confidence limits of the applicant's understanding of the wind resource and provide more favorable financing terms;
4. There are new wind turbine manufacturers and more turbine models on the market and it is now possible to effectively customize the choice of turbine model specific to the wind regime at a given location. To take full advantage of this opportunity as much on-site data as possible should be collected.

36. In the letter of request to renew Agency Permit 2005-271R2, the Project Sponsor continues to identify the uncertainty of the business climate for small wind farms as a significant influence on their decision not to submit an application for a commercial wind farm at this time. The Applicant further cites recent changes in the regulatory environment at the State level and the uncertain future of tax credits for wind development at the Federal level as additional reasons for not making their investment decisions at this time.
37. Adirondack Wind Partners has advised Agency staff that it is still considering submitting an application for a commercial wind farm within the next two years however, "the economic prospects for any future wind project at the Barton site may not be clear until well into 2013". If an application for a commercial wind farm is not submitted within the term of this permit but is imminent, Adirondack Wind Partners will ask for an additional renewal request for the mast.
38. Finding of Fact 20 of Agency Permit 2005-271 stated that potential open space or aesthetic impacts would not be "undue" since the impacts would be temporary, i.e. until 2008. On October 22, 2009 Agency staff visited the The Vly, a small pond located in the Siamese Ponds Wilderness area and 1.1± miles westerly of the tower, to determine the extent of visibility of the tower. From this location the existing fire tower and communications towers on the summit of Gore Mountain as well as several buildings on the Barton Mines property are visible. The visibility of the eight inch diameter tower and its support facilities are not readily apparent as to size, composition, or color due its small diameter and due to the intervening distance between the viewer and the mast. In Agency Permit 2005-271R2, the Agency found that "the mast continues to reasonably comply with the Agency's Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park". After 6 years of this "temporary" use, and no proposal from the Project Sponsor for cessation of the use, it will be appropriate to require a new review of the use including a visual impact assessment prior to any further renewal of this project.
39. The requested renewal does not involve a material change in permit conditions, the applicable law, environmental conditions or technology since the issuance of Permit 2005-271R2 pursuant to §809(8)(b)(1) of the Adirondack Park Agency Act.

Future Development

40. Nothing in this project permit authorizes, endorses, or encourages the construction of a commercial wind farm on the project site. Any future application will require a new Agency permit meeting the standard of Section 809(9) or (10) such as plan compatibility and "no undue adverse impact."

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval as set forth in §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574. The Agency hereby finds that the amended project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

PERMIT issued this day
of , 2012

ADIRONDACK PARK AGENCY

BY: _____
Richard E. Weber, III, Deputy Director
(Regulatory Programs)

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard E. Weber, III personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

REW:LRW:PVC:mlr