



State Energy Plan (SEP) Comments

NYSERDA

17 Columbia Circle

Albany, NY 12203-6399

April 29, 2011

Dear Members of the New York State Energy Planning Board,

Thank you for the opportunity to comment on the Draft Scope for the 2013 New York State Energy Plan (the Scope). The Conservancy supports the state's recognition of the relationship between energy planning and climate change, the importance of the transition to an energy system with low greenhouse gas emissions that can also meet the state's energy needs, and the emphasis on producing, delivering and using energy more efficiently. We believe that energy planning can and must be used to identify, avoid, minimize and mitigate environmental impacts and protect natural resources as energy generation and transmission systems are sited. The Nature Conservancy supports the state's existing goal of reducing greenhouse gas emissions 80% by 2050 as a driver for the 2013 State Energy Plan. Our comments below are intended to help strengthen and improve the draft Scope for the benefit of nature and people. This approach is consistent with our mission, which is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive.

The Nature Conservancy is working nationwide and around the world with industry and governments to plan for energy siting, prevent impacts to wildlife habitats and natural resources wherever possible, and to create mitigation policies that address ecological impacts where and when necessary. The Conservancy is using science to assist communities, government and developers in creating maps that include the overlapping interests – priority habitats and priority energy development sites – and use those data to direct development into

areas that avoid and/or minimize impacts and plan for mitigation where impacts occur. The Nature Conservancy in New York is hopeful that our “Energy By Design” framework can be deployed in New York in cooperation with the State, conservation partners, industry, and other stakeholders to realize the benefits of proactive energy planning locally and regionally.

**Draft Scope Comments:** We recognize that the topic areas described in the Draft Scope are intended to meet statutory requirements and to address additional issues identified by the Energy Board. Our comments on the Scope are as follows:

**Energy Efficiency and Renewables (Section II):** The scope appropriately identifies energy efficiency and renewable resources as priorities for meeting the state’s energy needs and goals.

**Energy Efficiency:** The Nature Conservancy supports strategies to produce, deliver and use all forms of energy more efficiently in the electricity, transportation and buildings sectors. By reducing the need for new facilities, environmental impacts can be avoided. The cleanest and cheapest energy is energy that is not used. The 2009 NYS Energy Plan cited a 2008 report that concluded that the State’s achievable potential for saving through end-use energy efficiency through 2015 to be about 14% of electricity demand. Improved building codes and appliance standard could provide an additional 5.7% reduction from forecasted electricity use. The cost benefit analysis presented in the plan indicated that energy efficiency measure would capture approximately \$2.60 in benefits for every dollar invested in efficiency.<sup>1</sup>

**Renewables:** The Nature Conservancy’s scientists calculate that “the footprint of new energy development including wind, solar and biofuels could occupy nearly 80,000 miles of land by 2030 – an area larger than the state of Minnesota.”<sup>2</sup> While The Nature Conservancy supports the state’s efforts to transition to lower carbon energy production and to reduce greenhouse gas emissions, siting of renewable energy and gas facilities remain a significant issue in terms of the significant wildlife habitat and natural resource impacts at specific locations, as well as

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<sup>1</sup> 2009 New York State Energy Plan, pg. 12

<sup>2</sup> Nature?” Nature Conservancy Magazine, Autumn 2009.

<http://www.nature.org/magazine/autumn2009/features/index.html>. Accessed 9/29/09.

cumulative impacts. As the state works to meet demand for energy and reduce climate change impacts, it is critical that natural resources be protected. The topics outlined in the renewable section of the draft Scope do not include assessment of the impacts associated with their development, and must.

**Meeting the State’s Energy Needs and Goals for Electricity (Section III):** To meet the State’s energy needs, it will be crucial to evaluate the potential contribution of energy efficiency and renewable resources. In addition, assessment of existing generation, transmission and distribution infrastructure, the options for modernizing aging infrastructure and the impacts of siting new infrastructure are listed to be considered in this section of the Scope.

The 2009 Energy Plan recommended that the State should initiate a study to inventory existing utility corridors used for electric, natural gas, petroleum products, water and telecommunications facilities that are underused or can be expanded to accommodate new facilities, along with highways, railroads, and waterways, and improve and coordinate efforts to identify and promote the use of linear property interests for use of existing and siting new electric and gas transmission facilities.<sup>3</sup> The Nature Conservancy supports such an inventory of existing utility corridors to reduce impacts of new rights of way on forests and other natural resources. However, the inventory should include an evaluation of each potential or existing corridor’s environmental values, and the opportunities to avoid or minimize the impacts.

**Environmental Impacts (Section VI) :** The Nature Conservancy urges the Board to include development of a framework for energy siting that protects critical natural resources, and minimizes and mitigates impacts where they occur.

- Energy siting should be conducted through a thoughtful and thorough process that considers individual projects’ impacts to wildlife habitats and natural resources, as well as the cumulative impacts of energy siting throughout the region and/or the state. Creating a statewide siting process for energy transmission and generation that is fuel neutral and includes all types of facilities will ensure cumulative impacts are considered, and social, environmental, and economic concerns that may have impacts beyond municipal borders are balanced. Assessments are needed to determine the impacts of energy production and transmission on forest and aquatic

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<sup>3</sup> 2009 NYS Energy Plan, pg. 68

ecosystems and identify threats that may exist including habitat fragmentation, water pollution, stream flow alteration, invasive species proliferation and other impacts. The development of an ecosystem framework for making decisions can avoid severe environmental damage and can result in the much more effective expenditure of compensatory funds for mitigation.

- The Scope should include mapping of New York's critical wildlife habitats and natural resources, so that areas of high importance are avoided, and projects in those areas that can't be avoided are mitigated. The Nature Conservancy believes that the state must engage in a comprehensive process to determine where various energy and transmission siting should and should not occur. Siting protocols are needed to ensure that the natural integrity and character of lands with potential for energy development are protected. Currently the siting process is left to a patchwork of local and state regulatory processes. The Nature Conservancy believes that this patchwork creates difficulties in realizing conservation outcomes on energy projects, and that a statewide framework for energy siting is needed in New York. The Conservancy has an extensive set of mapping resources that we are willing to share and contribute to this effort.
- Siting wind facilities off-shore will require evaluation of potential coastal and aquatic habitat impacts to identify siting constraints and the potential for cumulative impacts of turbines and transmission infrastructure. Tidal, current and other hydrokinetic resources should also be subject to marine spatial planning and evaluation.
- A mitigation fund should be created in New York State, with funding from energy developers to offset resource and environmental impacts, including lost or negatively affected wildlife habitat as a result of energy development, production and transmission, as well as to provide funding for monitoring and evaluation to measure the effectiveness, efficiency and efficacy of energy mitigation efforts.
- Caution should be used regarding the siting of energy facilities on state lands and waterways. Language from the 2009 Energy Plan regarding public trust or parkland doctrines was unclear in its intent and should be clarified. Specific allowable actions

should be clearly stated to avoid uncertainty, and environmental impacts, such as loss of wildlife habitat and biodiversity should be avoided if renewable energy is developed on state lands. The Nature Conservancy believes that the public trust and parkland doctrines require that New York State protect ecological systems on state owned land and not allow the environmental values to be damaged in the pursuit of energy production.

**Smart Growth:** The scope appropriately includes a focus on smart growth. Integration of land-use and transportation planning, zoning and building codes must be fully exploited to achieve sustainable future land use patterns to reduce energy use and transportation fuel demand. Communities should be encouraged to create efficiency gains by planning for compact, mixed use centers that do not rely as much on automobile trips for all daily needs.

**Impacts of Energy Produced Out-of-State:** The Plan should include ways of evaluating the impacts of energy produced outside the state from multiple sources on New York's and the region's natural resources and wildlife habitats. For example, we propose advancing the concept of "critical loads" for air pollutants produced by fossil fuel combustion inside and outside of New York. Critical loads are defined as the levels of pollutant deposition that can be tolerated by sensitive ecosystems without incurring significant harm. Increased on efficiency and use of renewables are a means of reducing reliance on less clean out-of-state sources of energy.

The need to reduce our carbon footprint regionally and globally means that New York State must look responsibly at the impacts associated with imported energy and work towards reducing those impacts by employing energy efficiency, energy conservation and use of renewables in-state as expeditiously and to the fullest extent possible.

**Natural Gas:** The 2009 Energy Plan encouraged the development of the Marcellus Shale as a source of natural gas. While the future of natural gas production in New York State has not yet been determined, the Scope includes assessment of the "impact of the potential expansion of use of natural gas in multiple sectors." The potential impact of expansion of using natural gas is expected to be positive in terms of reducing carbon emissions from power plants and other applications. However, many issues regarding the environmental impacts associated with producing natural gas from deep shale formations utilizing high-volume horizontal fracturing

have come to light in the last two years. The Scope should thoroughly address the impacts associated with development of natural gas infrastructure, including all phases of its production and distribution, and the need to appropriately evaluate and regulate water quality impacts, impacts associated with large scale water withdrawals and the potential cumulative impacts of habitat fragmentation associated with well pads, pipelines, road development and transport of materials associated with drilling.

The question of consistency with public trust or parkland doctrines should be clarified regarding natural gas development. Again, The Nature Conservancy believes that the public trust and parkland doctrines require that New York State protect ecological systems on state owned land and not allow the environmental values to be damaged in the pursuit of energy production.

**Local, Regional and Federal Action and Collaboration:** A high degree of collaboration with various levels of government in energy and climate decision making will be necessary to achieve New York's goals for a sustainable and reliable energy future. The Nature Conservancy urges the State Energy Board to fully analyze and exploit opportunities to employ best practices of local, regional and federal coordination in energy project development to support a clean energy economy in New York. Investment in local engagement, training and enforcement of building and energy codes and standards must be pursued, as well as expansion of smart growth initiatives throughout the state. Finding opportunities to expand New York's position in the larger, regional clean energy supply chain, as well as providing leadership in developing stable markets for clean energy in New York must be part of New York's energy future.

**Conclusion:** The Nature Conservancy in New York thanks the Energy Siting Board again for the opportunity to comment on the Draft Scope for the 2013 State Energy Plan. As demonstrated in other regions of the United States and internationally, The Nature Conservancy is committed to working with state and local governments, conservation partners, industry, local communities and other stakeholders to create a science-based, proactive planning process for energy siting in New York State that will allow for the prevention or mitigation of negative impacts of energy siting on wildlife and natural resources, the reduction of greenhouse gas emissions, and an increase in energy efficiency in generation and

transmission systems. We look forward to continued collaboration with the state and all other relevant stakeholders on this very important initiative for New York.

Sincerely,

A handwritten signature in black ink that reads "R. Darryl Banks". The signature is written in a cursive style with a long, sweeping underline.

R. Darryl Banks  
Deputy State Director for Conservation Strategies and External Affairs

Cc: Hon. Robert Sweeney, Chair, Assembly Environmental Conservation Committee  
Hon. Mark Grisanti, Chair, Senate Environmental Conservation Committee  
Thomas Congdon, Deputy Secretary for Energy and the Environment  
Commissioner Joe Martens, NYS Department of Environmental Conservation  
Commissioner Rose Harvey, NYS Office of Parks, Recreation and Historic Preservation