

New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources
New York Natural Heritage Program
625 Broadway, Albany, New York 12233-4757
Phone: (518) 402-8935 • **FAX:** (518) 402-8925
www.dec.state.ny.us

FEB 13 REC'D



Alexander B. Grannis
Commissioner

February 8, 2008

Brian Schwabenbauer
Environmental Design & Research
217 Montgomery St, Suite 1000
Syracuse, NY 13202

Dear Mr. Schwabenbauer:

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 Allegany Wind Power Project, # 06059, area as indicated on the map you provided, located in the Town of Allegany, Cattaraugus 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 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 other 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 the 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 environment 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
Tara Seoane, Information Services
New York Natural Heritage Program

Encs.

cc: Reg. 9, Wildlife Mgr.
Mark Wothal, Bureau of Habitat, Albany
Rudyard Edick, Environmental Permits, Albany

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

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

Dendroica dominica

Yellow-throated
Warbler

NY Legal Status: Protected

NYS Rank: SNA - Rank not assigned

Office Use
7022

Federal Listing:

Global Rank: G5 - Demonstrably secure

Last Report: 1984-07-21

EO Rank: Failed to find but search more

County: Cattaraugus

Town: Red House

Location: Blacksnake Mountain

General Quality and Habitat: The site includes a small lake, Science Lake, and a forested stream valley. The area is in the upper elevations of Allegany State Park at about 1800-1900 feet. The forest is primarily northern hardwoods with a small plantation of scotch and white pine. Hardwoods are primarily sugar maple and black cherry. The trees are mature and there is a sparse undergrowth except in the area around the former site of the Allegany School of Natural History where the forest is at an earlier stage of succession.

Haliaeetus leucocephalus

Bald Eagle

NY Legal Status: Threatened

NYS Rank: S2S3B,S2N - Imperiled

Office Use
10309

Federal Listing: Threatened

Global Rank: G5 - Demonstrably secure

Last Report: **

EO Rank: **

ESU
USFWS

County: Cattaraugus

Town: Allegany Indian Reservation

Location: At, or in the vicinity of, the project site.

General Quality and Habitat: **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.

Haliaeetus leucocephalus

Bald Eagle

NY Legal Status: Threatened

NYS Rank: S2S3B,S2N - Imperiled

Office Use
4874

Federal Listing: Threatened

Global Rank: G5 - Demonstrably secure

Last Report: **

EO Rank: **

ESU
USFWS

County: Cattaraugus

Town: Allegany Indian Reservation, Allegany

Location: At, or in the vicinity of, the project site.

General Quality and Habitat: **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.

Natural Heritage Report on Rare Species and Ecological Communities

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

Oporornis formosus

Kentucky Warbler	NY Legal Status: Protected	NYS Rank: S2 - Imperiled	Office Use 828
	Federal Listing:	Global Rank: G5 - Demonstrably secure	
	Last Report: 1984-06-02	EO Rank: Failed to find but search more	
	County: Cattaraugus		
	Town: Allegany Indian Reservation		
	Location: Vandalia		
	General Quality and Habitat: Mixed deciduous forest on a moderate south-facing slope. Overstory of mature sugar maple with dense understory of striped maple in 1984. In 1999 reported as selectively logged primarily for white and red oak. Site is quite dry with a shaded, intermittent stream in the valley.		

4 Records Processed

More detailed information about many of the rare and listed animals in New York, including biology, identification, habitat, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.acris.nynhp.org, from NatureServe Explorer at <http://www.natureserve.org/explorer>, and from NYSDEC at <http://www.dec.ny.gov/animals/7494.html>.

These occurrences are within the projects site or in close proximity.

Natural Heritage Report on Rare Species and Ecological Communities

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Natural Heritage Report on Rare Species and Ecological Communities

AMPHIBIANS

Cryptobranchus alleganiensis

Hellbender	NY Legal Status: Special Concern	NYS Rank: S2 - Imperiled	Office Use 11048
	Federal Listing:	Global Rank: G3G4 - Vulnerable	
	Last Report: 1981-07-17	EO Rank: Poor	
	County: Cattaraugus		
	Town: Allegany		
	Location: At, or in the vicinity of, the project site.		
	Directions: **		
	General Quality and Habitat: **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.		

Eurycea longicauda

Longtail Salamander	NY Legal Status: Special Concern	NYS Rank: S2S3 - Imperiled	Office Use 11079
	Federal Listing:	Global Rank: G5 - Demonstrably secure	
	Last Report: 1996-07-17	EO Rank: Extant	
	County: Cattaraugus		
	Town: Olean		
	Location: Camel Back Olean		
	Directions: From the junction of West River Road and South Union Street just south of the Allegheny River at Olean, go west on West River Road for 0.9 miles. Turn left and continue past the last house. Longtail salamanders were found along the base of the hill (Camel Back).		
	General Quality and Habitat: A rank of 'E' was assigned because the number of individuals that were found is unknown. The habitat is the base of a forested hill. A wet seep exists at the base of the northeast-facing slope.		

COMMUNITIES

These occurrences are within the projects site or in close proximity.

Allegheny oak forest

This occurrence of Allegheny Oak Forest is considered significant from a statewide perspective by the NY Natural Heritage Program. It is either an occurrence of a community type that is rare in the state or a high quality example of a more common community type. By meeting specific, documented significance criteria, the NY Natural Heritage Program considers this occurrence to have high ecological and conservation value.

Office Use

NY Legal Status: Unlisted **NYS Rank:** S2 6734
Federal Listing: **Global Rank:** G3G4
Last Report: 1986-07-02 **EO Rank:**
County: Cattaraugus SL
Town: Allegany
Location: East Vandalia Hill
Directions: The plants are on a southeast-facing slope of a hill bordering the north side of Route 17, between Townsend Hollow and North Ninemile Road.
General Quality and Habitat: Good species diversity, size and condition, second growth forest. Mixed oak forest on a steep, southeast-to south-facing slope, in which gullies are more mesic with greater proportion of red maple, slopes are drier with oak canopy and heath shrub understory.

FRESHWATER MUSSELS

Actinonaias ligamentina

Mucket

Office Use
5620

NY Legal Status: Unlisted **NYS Rank:** S1S2 - Critically imperiled
Federal Listing: **Global Rank:** G5 - Demonstrably secure
Last Report: 2006-06-17 **EO Rank:** Excellent
County: Cattaraugus
Town: Portville, Olean, City Of Olean, Allegany
Location: Allegheny River And Tributaries
Directions: The mussels were found in the Allegheny River and two of its tributaries, Olean Creek and Oswayo Creek. From Mill Grove (located south of Portville), follow the Allegheny River west toward Allegany. The mussels were found in the river in more than 17 locations between Mill Grove and Townsend Hollow (located west of Allegany); see the Heritage GMF for additional location information. From Olean, follow Route 16 to Olean Creek.
General Quality and Habitat: There are multiple mussel beds in one river and two creeks spanning approximately 18 miles. Some of the beds have a small number of individuals while others are estimated to have greater than 1000 individuals. In 2005, a total of 3001 living or freshly d The mussels were found in the Allegheny River and two of its tributary creeks, Olean Creek and Oswayo Creek. The Allegheny River was historically the richest river in New York and Pennsylvania for freshwater mussels. It is generally a swift flowing, clear river that is greater than 50 meters wide and generally less than 1 meter deep. Some small islands are present. The river bottom is a mix of cobbles, sand, and gravel. Residential, agricultural, and wooded areas border the river.

Lampsilis fasciola

Wavyrayed
Lampmussel

Office Use
1873

NY Legal Status: Threatened **NYS Rank:** S1 - Critically imperiled
Federal Listing: **Global Rank:** G5 - Demonstrably secure ESU
Last Report: ** **EO Rank:** **
County: Cattaraugus
Town: City Of Olean, Olean, Portville, Allegany
Location: At, or in the vicinity of, the project site.
Directions: **
General Quality and Habitat: **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 occurrences are within the projects site or in close proximity.

Lampsilis ovata

Pocketbook

NY Legal Status: Unlisted

NYS Rank: S2S3 - Imperiled

Office Use
8892

Federal Listing:

Global Rank: G5 - Demonstrably secure

Last Report: 2006-06-17

EO Rank: Good

County: Cattaraugus

Town: City Of Olean, Olean, Portville, Hinsdale, Allegany

Location: Allegheny River And Tributaries

Directions: The mussels were found in the Allegheny River, Olean Creek, and Oswayo Creek. Allegheny River: From Mill Grove, follow the Allegheny River toward Allegany. The mussels were found in many locations in the river between Mill Grove and Townsend Hollow, which is located to the west of Allegany. See the Heritage GMF for additional location information. Olean Creek: From South Olean at the Route 16 bridge over the Allegheny River, go north on Route 16 to North Union Street, located just before the Route 16 bridge.

General Quality and Habitat: There are no global rank specifications for this species. In 2005, 211 living mussels were found in 117.0 person hours of snorkel surveys in the Allegheny River. Evidence of recruitment was observed. No mussels were found in 5.0 person hours of snorkel s The mussels were found in the Allegheny River, Olean Creek, and Oswayo Creek. Allegheny River: The Allegheny River is generally a swift flowing, clear river that is greater than 50 meters wide and generally less than 1 meter deep. Some small islands are present. The river bottom is a mix of cobbles, sand, and gravel. Residential, agricultural, and wooded areas border the river. There is a flood-control levee as well. Associated species: Lampsilis cardium, Elliptio dilatata, Lasmigona costata.

Ligumia recta

Black Sandshell

NY Legal Status: Unlisted

NYS Rank: S2S3 - Imperiled

Office Use
3227

Federal Listing:

Global Rank: G5 - Demonstrably secure

Last Report: 2005-su-fa

EO Rank: Fair

County: Cattaraugus

Town: City Of Olean, Olean, Portville, Allegany

Location: Allegheny River and Olean Creek

Directions: The mussels were found in the Allegheny River in several locations between Mill Grove (located south of Portville) and Townsend Hollow (located west of Allegany), and in Olean Creek in the vicinity of the Route 16 bridge in Olean. See the Heritage GMF for additional location information.

General Quality and Habitat: There are no global rank specifications for this species. In 2005, 43 living and 1 recently dead mussel were found in 117.0 person hours of snorkel surveys in the Allegheny River. One mussel was found in 5.0 person hours of snorkel surveys in a section o The mussels were found in the Allegheny River and Olean Creek. Allegheny River: The Allegheny River is generally a swift flowing, clear river that is greater than 50 meters wide and generally less than 1 meter deep. Some small islands are present. The river bottom is a mix of cobbles, sand, and gravel. Residential, agricultural, and wooded areas border the river. There is a flood-control levee as well. Associated species: Actinonaias ligamentina, Lampsilis ovata, Elliptio dilatata, Lasmigona costata.

Villosa fabalis

Rayed Bean

NY Legal Status: Endangered

NYS Rank: S1 - Critically imperiled

Office Use
862

Federal Listing: Candidate

Global Rank: G2 - Imperiled

Last Report: **

EO Rank: **

ESU

County: Cattaraugus

Town: City Of Olean, Hinsdale, Olean, Portville, Allegany

Location: At, or in the vicinity of, the project site.

Directions: **

USFWS

General Quality and Habitat: **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.

VASCULAR PLANTS

These occurrences are within the projects site or in close proximity.

Vittaria appalachiana

**Appalachian
Shoestring Fern**

NY Legal Status: Endangered

NYS Rank: S1 - Critically imperiled

Office Use
3589

Federal Listing:

Global Rank: G4 - Apparently secure

Last Report: 1983-08-03

EO Rank: Extant

County: Cattaraugus

Town: Allegany

Location: Nichols Run Road

Directions: Nichols Run Road, 3 mi west of Route 646.

General Quality and Habitat: Shaded crevice of southwest-facing outcrop of Pottsville sandstone conglomerate in woods.

M

9 Records Processed

More detailed information about many of the rare and listed animals and plants in New York, including biology, identification, habitat, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.acris.nynhp.org, from NatureServe Explorer at <http://www.natureserve.org/explorer>, from NYSDEC at <http://www.dec.ny.gov/animals/7494.html> (for animals), and from USDA's Plants Database at <http://plants.usda.gov/index.html> (for plants).

More detailed information about many of the natural community types in New York, including identification, dominant and characteristic vegetation, distribution, conservation, and management, is available online in Natural Heritage's Conservation Guides at www.acris.nynhp.org. For descriptions of all community types, go to <http://www.dec.ny.gov/animals/29384.html> and click on DRAFT--Ecological Communities of New York State.

USERS GUIDE TO NY NATURAL HERITAGE DATA

New York Natural Heritage Program, 625 Broadway, 5th Floor, Albany, NY 12233-4757 phone: (518) 402-8935



NATURAL HERITAGE PROGRAM: The NY Natural Heritage Program is a partnership between the NYS Department of Environmental Conservation (NYS DEC) and The Nature Conservancy. Our mission is to enable and enhance conservation of rare animals, rare plants, and significant communities. We accomplish this mission by combining thorough field inventories, scientific analyses, expert interpretation, and the most comprehensive database on New York's distinctive biodiversity to deliver the highest quality information for natural resource planning, protection, and management.

DATA SENSITIVITY: The data provided in the report are ecologically sensitive and should be treated in a sensitive manner. The report is for your in-house use and should **not** be released, distributed or incorporated in a public document without prior permission from the Natural Heritage Program.

EO RANK: A letter code for the quality of the occurrence of the rare species or significant natural community, based on population size or area, condition, and landscape context.

A-E = Extant: A=Excellent, B=Good, C=Fair, D=Poor, E=Extant but with insufficient data to assign a rank of A-D.

F = Failed to find. Did not locate species during a limited search, but habitat is still there and further field work is justified.

H = Historical. Historical occurrence without any recent field information.

X = Extirpated. Field/other data indicates element/habitat is destroyed and the element no longer exists at this location.

U = Extant/Historical status uncertain.

Blank = Not assigned.

LAST REPORT: The date that the rare species or significant natural community was last observed at this location, as documented in the Natural Heritage databases. The format is most often YYYY-MM-DD.

NY LEGAL STATUS – Animals:

Categories of Endangered and Threatened species are defined in New York State Environmental Conservation Law section 11-0535. Endangered, Threatened, and Special Concern species are listed in regulation 6NYCRR 182.5.

E - Endangered Species: any species which meet one of the following criteria:

- Any native species in imminent danger of extirpation or extinction in New York.
- Any species listed as endangered by the United States Department of the Interior, as enumerated in the Code of Federal Regulations 50 CFR 17.11.

T - Threatened Species: any species which meet one of the following criteria:

- Any native species likely to become an endangered species within the foreseeable future in NY.
- Any species listed as threatened by the U.S. Department of the Interior, as enumerated in the Code of the Federal Regulations 50 CFR 17.11.

SC - Special Concern Species: those species which are not yet recognized as endangered or threatened, but for which documented concern exists for their continued welfare in New York. Unlike the first two categories, species of special concern receive no additional legal protection under Environmental Conservation Law section 11-0535 (Endangered and Threatened Species).

P - Protected Wildlife (defined in Environmental Conservation Law section 11-0103): wild game, protected wild birds, and endangered species of wildlife.

U - Unprotected (defined in Environmental Conservation Law section 11-0103): the species may be taken at any time without limit; however a license to take may be required.

G - Game (defined in Environmental Conservation Law section 11-0103): any of a variety of big game or small game species as stated in the Environmental Conservation Law; many normally have an open season for at least part of the year, and are protected at other times.

NY LEGAL STATUS – Plants:

The following categories are defined in regulation 6NYCRR part 193.3 and apply to NYS Environmental Conservation Law section 9-1503.

E - Endangered Species: listed species are those with:

- 5 or fewer extant sites, or
- fewer than 1,000 individuals, or
- restricted to fewer than 4 U.S.G.S. 7 ½ minute topographical maps, or
- species listed as endangered by U.S. Dept. of Interior, as enumerated in Code of Federal Regulations 50 CFR 17.11.

T - Threatened: listed species are those with:

- 6 to fewer than 20 extant sites, or
- 1,000 to fewer than 3,000 individuals, or
- restricted to not less than 4 or more than 7 U.S.G.S. 7 and ½ minute topographical maps, or
- listed as threatened by U.S. Department of Interior, as enumerated in Code of Federal Regulations 50 CFR 17.11.

R - Rare: listed species have:

- 20 to 35 extant sites, or
- 3,000 to 5,000 individuals statewide.

V - **Exploitably vulnerable**: listed species are likely to become threatened in the near future throughout all or a significant portion of

their range within the state if causal factors continue unchecked.

U - **Unprotected**; no state status.

FEDERAL STATUS (PLANTS and ANIMALS): The categories of federal status are defined by the United States Department of the Interior as part of the 1974 Endangered Species Act (see Code of Federal Regulations 50 CFR 17). The species listed under this law are enumerated in the Federal Register vol. 50, no. 188, pp. 39526 - 39527. The codes below without parentheses are those used in the Federal Register. The codes below in parentheses are created by Heritage to deal with species which have different listings in different parts of their range, and/or different listings for different subspecies or varieties.

(blank) = No Federal Endangered Species Act status.

LE = Formally listed as endangered.

LT = Formally listed as threatened.

C = Candidate for listing.

LE,LT = Formally listed as endangered in part of its range, and as threatened in the other part; or, one or more subspecies or varieties is listed as endangered, and the others are listed as threatened.

LT,PDL = Populations of the species in New York are formally listed as threatened, and proposed for delisting.

GLOBAL AND STATE RANKS (animals, plants, ecological communities and others): Each element has a global and state rank as determined by the NY Natural Heritage Program. These ranks carry no legal weight. The global rank reflects the rarity of the element throughout the world and the state rank reflects the rarity within New York State. Intraspecific taxa are also assigned a taxon rank to reflect the infraspecific taxon's rank throughout the world. ? = Indicates a question exists about the rank. Range ranks, e.g. S1S2, indicate not enough information is available to distinguish between two ranks.

GLOBAL RANK:

G1 - **Critically imperiled** globally because of extreme rarity (5 or fewer occurrences), or very few remaining acres, or miles of stream) or especially vulnerable to extinction because of some factor of its biology.

G2 - **Imperiled** globally because of rarity (6 - 20 occurrences, or few remaining acres, or miles of stream) or very vulnerable to extinction throughout its range because of other factors.

G3 - **Vulnerable**: Either rare and local throughout its range (21 to 100 occurrences), or found locally (even abundantly at some of its locations) in a restricted range (e.g. a physiographic region), or vulnerable to extinction throughout its range because of other factors.

G4 - **Apparently secure** globally, though it may be quite rare in parts of its range, especially at the periphery.

G5 - **Demonstrably secure** globally, though it may be quite rare in parts of its range, especially at the periphery.

GH - **Historically known**, with the expectation that it might be rediscovered.

GX - Species believed to be extinct.

NYS RANK:

S1 - **Critically imperiled**: Typically 5 or fewer occurrences, very few remaining individuals, acres, or miles of stream, or some factor of its biology making it especially vulnerable in New York State.

S2 - **Imperiled**: Typically 6 to 20 occurrences, few remaining individuals, acres, or miles of stream, or factors demonstrably making it very vulnerable in New York State.

S3 - **Vulnerable**: Typically 21 to 100 occurrences, limited acreage, or miles of stream in New York State.

S4 - **Apparently secure** in New York State.

S5 - **Demonstrably secure** in New York State.

SH - **Historically known** from New York State, but not seen in the past 15 years.

SX - **Apparently extirpated** from New York State.

SxB and SxN, where Sx is one of the codes above, are used for migratory animals, and refer to the rarity within New York State of the breeding (B)populations and the non-breeding populations (N), respectively, of the species.

TAXON (T) RANK: The T-ranks (T1 - T5) are defined the same way as the Global ranks (G1 - G5), but the T-rank refers only to the rarity of the subspecific taxon.

T1 through T5 - See Global Rank definitions above.

Q - Indicates a question exists whether or not the taxon is a good taxonomic entity.