

REPAIR OF DAMAGED AND ADVERSELY AFFECTED DRAIN TILE

Ball Hill Wind Energy, LLC

Towns of Villenova and Hanover
Chautauqua County, New York

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1.0 INTRODUCTION

The specific locations of drain tile (Tile) within the Project Area have yet to be determined. As part of the construction effort, Ball Hill Wind Energy, LLC (Ball Hill) will coordinate with affected landowners and the Chautauqua County Soil and Water Conservation District to determine the locations of Tile in relation to Project facilities. If Tile is damaged during construction or operation of the Project, the Tile will be repaired in a manner that restores the Tile's operating condition at the point of repair. If Tiles, within the Project's construction area defined limits, are adversely affected by the construction activities, Ball Hill will take such actions as are necessary to restore the functioning of the Tile, including the relocation, reconfiguration, and replacement of the existing Tile. All affected drain tiles, either clay or PVC, will be replaced with new PVC materials. The affected Landowner or Tenant may elect to negotiate a fair settlement with Ball Hill for the Landowner or Tenant to undertake the responsibility for repair, relocation, reconfiguration, or replacement of the damaged Tile.

1.1 Tile Repair

Within construction limits the damaged Tile will be repaired by Ball Hill, using the following standards and policies:

1. Ball Hill will endeavor to locate all tile lines prior to construction in an area so Tile damage can be prevented or minimized. Ball Hill will contact affected Landowners or Tenants for their knowledge of Tile locations prior to construction. Ball Hill commits to work with landowners who have planned future drain tile. If planned tile installation overlaps with the construction effort, Ball Hill will work with the landowner's tile installer to coordinate the tile installation and construction effort. During operations Ball Hill will continue to work with landowners to ensure that tile can be installed with minimal disruption to Wind Energy facilities. All identified Tile lines will be flagged prior to construction to alert construction crews to the possible need for Tile repairs. Tile that is damaged, cut, removed or otherwise discovered will be distinctly marked by placing a highly visible flag at the edge of the construction right of way (ROW) directly opposite such Tiles. This marker will not be removed until the Tile has been permanently repaired or replaced, if needed. In addition to the aforementioned marking, the exact location will be noted, either with a Global Positioning System coordinate or a measurement from a previously surveyed location (e.g., staked survey stake).
2. If water is flowing through a damaged Tile, temporary repairs, coordinated with the affected landowner and New York State Department of Agriculture and Markets (NYSDAM), will be promptly made and maintained in good condition until such time that permanent repairs can be made. If the Tile is dry and water is not flowing, temporary repairs are not required if permanent repair is made within 14 days of the time the damage occurred. If temporary repair of the Tile is not made, the upstream exposed Tile will not be obstructed but shall nonetheless be screened or otherwise protected to prevent the entry of foreign materials and small animals into the Tile system, and the downstream Tile entrance shall be capped or filtered to prevent entry of mud or foreign material into the Tile if the water level rises in the trench. All temporary and permanent Tile repair will be conducted in coordination with the landowner and, to the extent practicable, in accordance with NYSDAM Guidelines for Agricultural Mitigation for Wind Power Projects.
3. Ball Hill will make reasonable efforts to complete permanent Tile repairs within 14 days after Final Clean-Up, taking into account weather and soil conditions.

- a. All damaged, broken, or cracked Tile will be removed.
 - b. Only unobstructed Tile will be used for replacement.
 - c. The Tile furnished for replacement purposes will be of a quality, size and flow capacity at least equal to that of the Tile being replaced. Tile shall be replaced so that its original gradient and alignment are restored, except where relocation or rerouting is required for angled crossings with other utilities.
4. The replaced Tile will be firmly supported to prevent loss of gradient or alignment due to soil settlement. The method used shall be sand filled sacks set on pipe or bottom of channel for support.
 5. Before completing permanent Tile repairs, all Tile lines shall be examined either visually, by probing or by other appropriate means on both sides of the trench, within any work area, to check for Tile that might have been damaged by construction equipment. If Tile lines are found to be damaged, they will be repaired to operate similar to its existing conditions before construction began.
 6. Prior to backfilling of the applicable trench area, each permanent Tile repair shall be inspected for compliance by Ball Hill's environmental compliance officer. The officer will provide written reports and documentation for private Tile crossings and repairs to the affected landowner, and the town or county, where requested.
 7. The backfill surrounding the permanently repaired Tile shall be completed in a timely fashion and in a manner that ensures that any further backfilling will not damage or misalign the repaired section of the Tile line. The backfill shall be inspected for compliance with all applicable specification and landowner requests by Ball Hill's environmental compliance officer.
 8. After Project construction and permanent repair of affected Tile, for a period of five years, if it becomes apparent the Tile line in the area disturbed by construction is not functioning correctly resulting from the Project's construction or operation, Ball Hill shall make further repairs as necessary to restore subsurface drainage. Ball Hill will work jointly with landowners to investigate potential Tile damage. If there is a dispute concerning Tile damage, Ball Hill will employ a Tile specialist as needed to determine the cause of malfunction. Ball Hill agrees to reimburse landowners for expenses related to investigating damaged Tile if the damage is determined to be caused by the construction or operation of the Project.

1.2 Rock Removal

The following conditions with respect to rock removal will apply on agricultural land:

1. Rock excavated from Tile repair, bore pits, or other excavations may be used to backfill the trench only to the top of the existing bedrock profile.