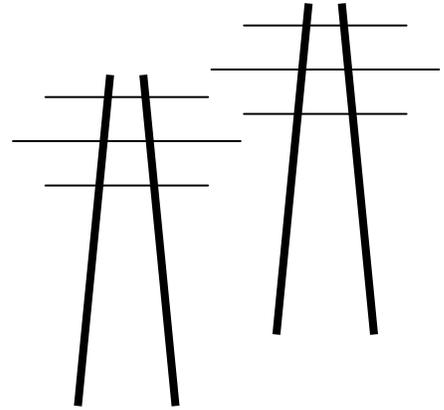


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January 14, 2015

Mark Hogeboom
FOIA Coordinator
U.S. Fish and Wildlife Service
NWRS/Refuges
5600 American Blvd. West, Suite 990
Bloomington, MN 55437-1458

Via email: mark_hogeboom@fws.gov

RE: FOIA Request – FWS-2015-00281 – Consultation and Documentation of Eagles
Black Oak/Getty Wind Projects Certificate of Need and Siting Permit
PUC Certificate of Need Docket CN-11-471
PUC Siting Docket: WS-10-1240 & WS-11-831

Dear Mr. Hogeboom:

Thanks for your emails after our initial FOIA request. You've asked for a clarification of the information and stated that the information as requested would be voluminous. Because there is no information from USFWS in the Black Oak and Getty Wind dockets, that's confusing, but we aren't looking for voluminous information, just that pertaining to USFWS regarding the area near the Black Oak and Getty dockets.

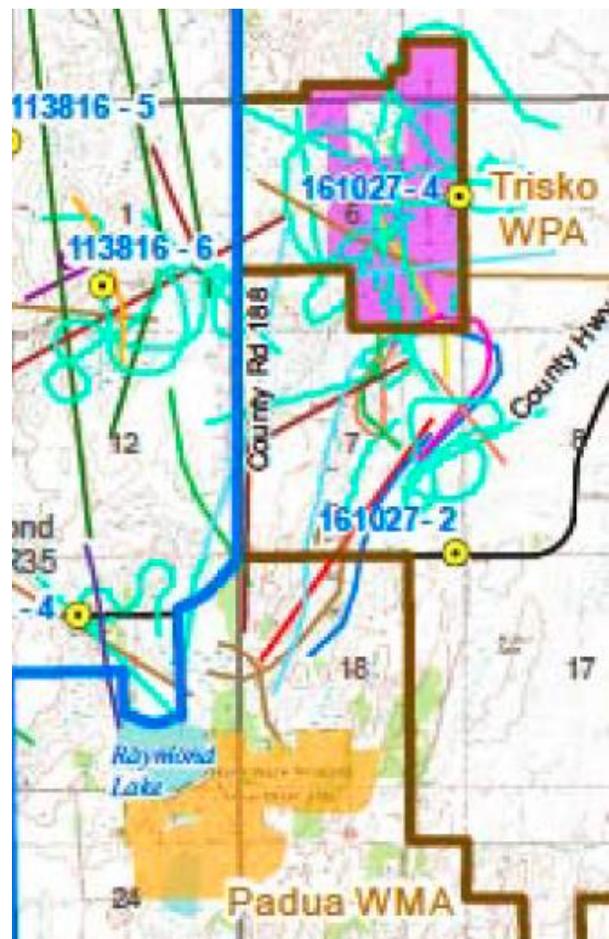
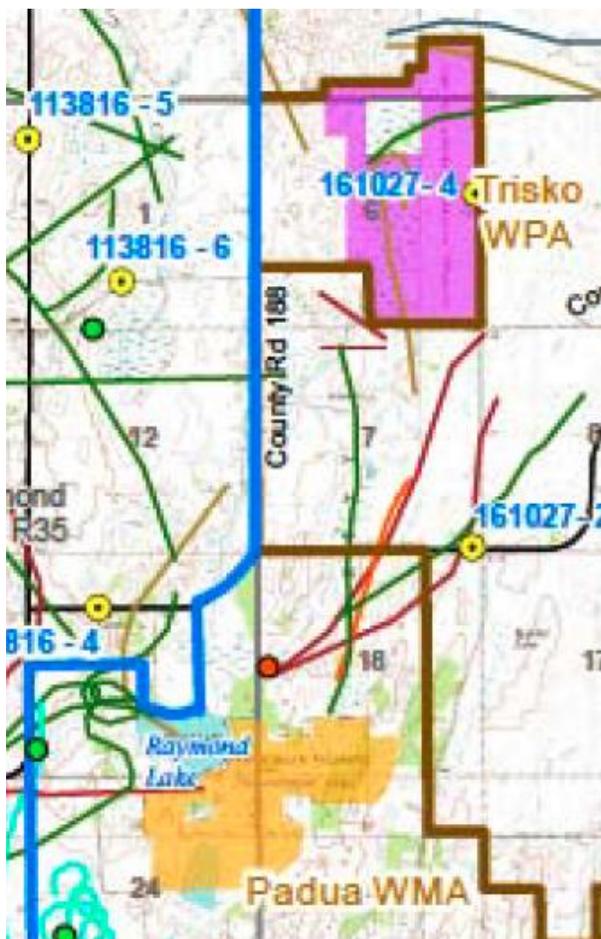
Our intent is indeed to narrow our request for quicker processing and lower cost! Under 43 CFR Part 2, Subp. G, the informal association named "Residents of Getty and Raymond Townships" would be deemed an educational requester, as we would use this information to inform the record at the Public Utilities Commission, Dockets CN-11-471 and Siting Dockets WS-10-1240 and WS-11-831. This request is not for a commercial purpose, and would not be used for a commercial purpose. When we receive the estimate of fees we will provide a more thorough Waiver Request if necessary, with affidavits from the principals of the Residents of Getty and Raymond Townships group. See below for more information regarding the purpose of our request and plans for use of the information.

Based on a review of our request, and your response, we've narrowed what we're looking for in our FOIA, and here it is. We are looking for, as stated, and I hope this clarification will narrow

down our request. At this time we request:

1) PERTAINING TO THE GETTY WIND PROJECT AND BLACK OAK WIND PROJECT ONLY:

- **All records of the Applicant's consultation with USFWS, comments offered by USFWS regarding the Black Oak and Getty Wind projects.**
- **USFWS documentation of eagles and other avian species birds protected by the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act in the Black Oak and Getty Wind project area, both within the footprint and within a five mile radius.** (Maps below are from Avian Study for the project. There is an eagle nest acknowledged by Applicants, represented by red dot in map below on right, and turbines are planned in flight path, notably between the Padua WMA and Trisko WMA. There are 13 turbines within 2 miles of this nest. Other birds in the area include trumpeter swans, loons, etc.)
- **Take Permit applications submitted regarding the Getty Wind Project and Black Oak Wind Project, and if none, whether Take Permit will be required.**



2) **INFORMATION REGARDING HABITAT CONSTRUCTION AND RESTORATION BY USFWS IN THIS SPECIFIC AREA.**

- **Please provide any and all information USFWS has regarding USFWS habitat work just north of the Padua WMA, and south of Co. Rd. 28 on property owned by the Jennissons.** A member of Residents of Getty and Raymond Townships, Barbara Jennisson, notes that USFWS did extensive rehabilitation work building ponds on their land in 1998, above the Padua WMA, and south of Co. Rd. 28, the brown line on the north edge of Section 19. This is an area where birds congregate in great numbers, yet this area has not been delineated on any of the wind projects' maps. Further to the northeast, there is another bald eagle nest, also not noted on the project maps. We request this USFWS information regarding its restoration work to enter into the PUC's docket for these two projects.

It is our hope that this clarification of the information we are requesting will simplify and speed this request.

Fee Waiver

On behalf of Residents of Getty and Raymond Townships, I request a fee waiver under 7 C.F.R. Subtitle A, Part 1, Subpart A, Section 6. This FOIA is likely to contribute significantly to public understanding of the operations and activities of the government, specifically how this USDA Rural Development came to be and what efforts are being made to secure payment and hold loan recipients accountable. There is no commercial interest on the part of the requester, Residents of Getty and Raymond Townships, as they have no commercial interest. This request is for information related to a wind project application in their neighborhood, and the Residents of Getty and Raymond Townships are participating members of the public in this utility regulatory docket.

Regarding this FOIA request, and the "six factors" governing a fee waiver or reduction in cost found in 7 C.F.R. Subtitle A, Part 1, Subpart A, Section 6 (1):

- i. The subject of the request is "the operations or activities of the government," specifically:
 - USFWS activities, consultation, discussions, evaluation, bird and nest inventories, related to the Getty and Black Oak wind projects, captioned above.
 - USFWS activities of habitat development on the property owned by the Jennissons in Stearns County, Minnesota.
- ii. The information is "likely to contribute" because it is necessary to understand and document the presence of protected avian species in the area, the participation of USFWS and discussions with the project applicants and state agencies, production of USFWS comments made because there are none in any of the project dockets, all of which should be a matter of public record and available to the Public Utilities Commission for consideration as they evaluate the permit applications.

iii. Disclosure of this information is necessary, as it is not available publicly and the requester been unable to locate it in any other manner

iv. This information is significant, because there are protected avian species in the area, and because USFWS spent much time and effort in habitat construction and/or restoration in this area, and these facts, impacts, and supporting documentation should be considered in permitting this project.

v. The requester has NO commercial interest.

vi. The primary interest in disclosure is the public interest, protection of wildlife and habitat, and again, there is no commercial interest.

(2) Regarding agency determination that disclosure will primarily benefit the general public, this information will be provided to the Residents of Getty and Raymond Townships, to the Public Utilities Commission and the general public on the PUC's eDockets electronic filing system, on the weblog Legalectric (www.legalelectric.org) which is the requester's attorney's blog for general information (not project specific). If the information raises substantive concerns, it may also be provided to local media outlets and distributed via social media.

(3)(ii) Recipient is engaged in a not-for-profit activity and participating in three utility infrastructure dockets, as captioned above, for need determination and siting of wind projects.

Please let me know if you have any questions or require anything further.

Very truly yours,



Carol A. Overland
Attorney at Law

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Mags Rheude margaret_rheude@fws.gov
Residents of Getty and Raymond Townships c/o Barb Jennisson