

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40



April 4, 2012

Suzanne Steinhauer, State Permit Manager
Department of Commerce
85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198

Re: Draft Site Permit and Draft Avian and Bat Protection Plan (ABPP) for the Getty Wind Project in Stearns County [PUC Docket Number: IP-6866/WS-11-831]

Dear Ms. Steinhauer:

The Minnesota Department of Natural Resources (DNR) has reviewed the Draft Site Permit and Avian and Bat Protection Plan (ABPP) for the Getty Wind Project in Stearns County. The following comments are included regarding each document.

Draft Site Permit

Condition 7.11 includes an Invasive Species Prevention Plan. The DNR is available to assist with review of this plan if needed. Also, Operational Order 113 has recently been issued by the DNR for invasive species prevention on state lands. This order could be used as a resource for the development of the Invasive Species Prevention Plan and may be appropriate for native plant communities on private lands.

7.12 Restoration – This condition allows for up to 12 months for restoration activities. This may be a maximum for other purposes, but it should be considered that waiting 12 months to restore and re-vegetate may allow for the introduction of invasive species and may not be compatible with the intent of the Invasive Species Prevention Plan. This should be addressed in the Invasive Species Prevention Plan.

Permit Condition 13.2 regarding bird flight diverters states that Permittees would be required to use bird flight diverters to markers on overhead lines located within or adjacent to delineated wetlands or surface waters. Though the requirement for bird diverters in these locations would likely help reduce impacts to birds, the DNR often recommends bird diverters in areas near wetlands or where there is a known flyway based on site specific review. This language could limit the opportunity to recommend diverters in a likely flyway if the area was not within or directly adjacent to a wetland. DNR reviewers would prefer the opportunity to review a map of overhead line locations and provide recommendations.

It appears that the language for “feeder” and “collector” lines is possibly inadvertently switched in one of either Condition 13.2 or 4.15.

The maps provided in the permit have a different turbine layout than those previously reviewed by the DNR dated August 30, 2011. This is significant to DNR recommendations because previous DNR review based wildlife impact risk estimates on avoidance efforts depicted in turbine layouts. DNR reviewers will re-review these maps and update the Department of Commerce Energy Facility Permitting (EFP) unit as soon as possible if there are any changes in a risk estimate or survey protocol recommendations.

Attachment 1C (G11) to the Draft Site Permit appears to depict a turbine located within a lake or wetland. Is this turbine location correct? If so, there would be concerns regarding impacts to habitat and wildlife.

Attachment 4 contains customary language regarding filing documents 14 days prior to a pre-construction meeting. This timeline is somewhat challenging for detailed review of biological documents and also may not fit with a schedule for submitting other biological documents such as the ABPP. Possibly, this language should be revisited considering other changes to customary permit language. Even if it is not revised, the DNR requests earlier coordination than 14 days, such as 30 days as practical.

Avian and Bat Protection Plan

1.0 Introduction – The United States Fish and Wildlife Service (USFWS) released the Final Land-Based Wind Energy Guidelines on March 23, 2012. The ABPP should be updated to reflect or reference the final guidelines.

It is notable that Sections 3.1 and 3.2 are partially repetitive.

Section 4.6 – It is notable that revisions are currently under review for the state list of special concern, threatened, and endangered species. Updates to the ABPP may be necessary in the future to reflect list revisions. Consideration by the project developer of species under review for listing is also generally recommended for long term projects such as wind projects.

Section 6.2 Setback Requirements – in EFP comments and recommendations for Feb 16, 2012 hearing, it is stated that Getty has agreed to a 1,800 foot setback (which is approximately 5 ½ rotor diameters) from all WPAs and WMAs. However, the ABPP table references the commonly used 3 by 5 rotor diameter distance. The ABPP should reflect the previous agreement of 5 ½ rotor diameters from these conservation lands.

Section 7 – Update to USFWS Land Based Wind Energy Guidelines is also notable in this section.

Section 8.1.1 – Mapping flight paths is recommended by the DNR and inclusion is appreciated. It should, however, be noted that flight paths and heights are likely approximated from ground observation and not exact.

Maps included in the ABPP contain different turbine layouts than those previously reviewed by the DNR. As stated above, previous recommendations based in part on turbine locations will be re-considered and any updates provided as soon as possible.

9.4 Training – The training should include both state and federal Threatened and Endangered species. The ABPP should elaborate on training details for “avian and bat issues.” Specific training activities should be explained and any available training material should be provided. Also, invasive species training should be included in accordance with required plans.

Section 9.6.1 mentions eagle and marbled godwit nests. This is a good addition to the ABPP. Adding a discussion of other nests protected by the Migratory Bird Treaty Act administered by the USFWS, to this section, is also recommended.

Section 9.8 should mention bird diverters on any overhead lines due to the discussion of this requirement in the Draft Permit. Maps should be included depicting the location of overhead lines and proposed diverter locations.

Section 10.3 references Prairie Rose, which may be a typo that could cause confusion in the record. This section also discusses reporting process and quarterly reports. The DNR would appreciate being copied on quarterly reports and/or periodically reviewing data with the Department of Commerce.

10.4 QC and Adaptive Management – Modification of wind turbine operations is discussed in this section. More detail on a specific adaptive management plan is recommended. For example, will there be periodic review of fatality data to identify if there are any problem turbines? What actions occur if there are problem turbines? Also, more detail on nest boxes would be helpful. Would nest boxes be placed in habitat away from turbines to try to coax species to other locations, or would nest boxes be used to enhance nearby habitat?

The key resources table on Page 37 is a helpful addition to this ABPP.

Thank you for your consideration of these comments. Please contact me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jamie Schrenzel".

Jamie Schrenzel
Principal Planner
Environmental Review Unit
(651) 259-5115