



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Twin Cities Field Office
4101 American Blvd E.
Bloomington, Minnesota 55425-1665

December 29, 2011

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

Re: Getty Wind Project Site Permit Application Review, Stearns County, Minnesota
PUC Docket No. IP6866/WS-11-831
FWS TAILS #32410-2010-FA-0068

Dear Ms. Steinhauer:

This is in response to the Department of Commerce (DOC) request for comments on the Site Permit Application for the proposed Getty Wind Project in Stearns County, Minnesota. The proposed project includes the installation of wind turbines, and associated infrastructure including roads, transmission lines, and staging areas. Representatives from the U.S. Fish and Wildlife Service (Service) and HDR have met on site during the summer and winter of 2011. The Service provided a letter regarding recommendations for the proposed Getty Wind Project to Bruce Jennings, P.E. with Dewild Grant Reckert, and Associates Company on May 11, 2010.

This letter is not intended to replace previous comments and recommendations the Service has provided regarding the Getty Wind Project. Our recommendations in this letter are intended to assist DOC staff in making informed decisions regarding recommendations they will carry forward to the Public Utility Commission (PUC).

Federally-listed Threatened, Endangered, and Candidate Species

Because of the potential for wind power projects to impact federally-listed species, they are subject to the Endangered Species Act (16 U.S.C. 1531-1544) section 9 provisions governing "take," similar to any other development project. "Take" incidental to a lawful activity may be authorized through the initiation of formal consultation, if a Federal agency is involved. If a federal agency, federal funding, or a federal permit are not involved in the project, an incidental take permit pursuant to section 10(a)(1)(B) of the ESA may be obtained upon completion of a satisfactory habitat conservation plan for the listed species.

Since our May 2010 correspondence with the project proponent the Poweshiek skipperling has been determined to be a candidate for listing under ESA, and is found within Stearns County, Minnesota. The Poweshiek skipperling has been identified within the Trisko Waterfowl

Production Area (WPA), adjacent to the Getty Wind Project boundary. The Poweshiek skipper has experienced rapid population decline in the State of Minnesota. To minimize any potential impacts to the species or its habitat, placement of turbines within grassland habitats should be avoided.

Migratory Birds

The Migratory Bird Treaty Act (16 U.S.C. 703-712; MBTA) implements four treaties that provide for international protection of migratory birds. The MBTA prohibits taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. Bald and golden eagles are afforded additional legal protection under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d). Unlike the Endangered Species Act, neither the MBTA nor its implementing regulations at 50 CFR Part 21, provide for permitting of “incidental take” of migratory birds.

The Service recommended observational bird surveys for the Getty Wind, LLC Project site to document species, direction of flight, and height of flight. To date, avian surveys have been completed within the proposed project site, and winter surveys specific to bald eagle movement are currently on-going. The Service is currently working with the project proponent as they develop an Avian and Bat Protection Plan (ABPP) to address migratory bird impact avoidance and minimization.

The Service recommends that proposed transmission lines be placed underground to the greatest extent possible. Transmission lines that must be placed above ground should be constructed in a location and fashion that will minimize impacts to migratory bird species. Due to the high waterfowl and shore bird use within the project area the Service recommends that bird diverters be placed on overhead transmission lines when they are adjacent to and/or bisect wetland and open water habitats.

Conservation Lands

We recommend that no turbines be located within ¼ mile of Conservation Reserve Program, Wetland Reserve Program, or other similar federally- or state-funded restoration projects.

Service Owned Lands

The Trisko and Kenna WPAs are adjacent to the proposed project site. The Service recommends that no turbines be placed within a ½ mile of any WPAs. If feasible a one mile setback from WPAs is preferred, which will reduce the potential for striking migratory birds utilizing the open water wetland and grassland habitats associated with these areas. If turbine locations are selected within 1 mile of any WPA, the Service recommends post construction mortality surveys be completed at these turbine locations.

Bat Acoustic Survey Recommendations

The Service recommends that the Getty Wind Project proponents and their consultants conduct rigorous assessments to determine bat use within the proposed Getty Wind Project site. We recommend installation of two AnaBat SDI detectors per meteorological tower to be used within the project area, and data should be collected from April 15 - November 15, 2012, and extending into the operational phase of the proposed project. One AnaBat detector should be mounted at 5 meters above ground, and the other should be mounted as close to the rotor-swept area as possible. The AnaBat's sensitivity should be adjusted to detect a calibration tone at 20 meters. AnaBat units must monitor from 0.5 hour before sunset until 0.5 hour after sunrise. This will help to gauge bat activity and to some degree, to determine bat species/guild composition within the project area during spring and fall migration and the maternity season.

Pre- and Post- Construction Survey Recommendations

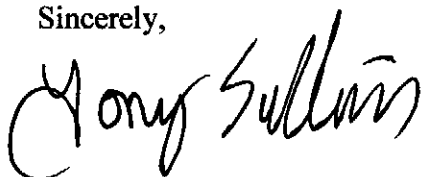
Due to the presence of an active bald eagle nest site in close proximity to the proposed turbine locations, and the presence of potential foraging habitat within the proposed project the Service recommends that the project proponent complete annual raptor nest surveys within the proposed project area and out two miles from the final turbine locations selected for construction. Raptor nest surveys should be completed prior to leaf-out in the spring of each year during construction and operation of the project. Monitoring should be conducted to assess the daily movement patterns of any raptors actively nesting within the proposed project site or within two miles of the proposed project site.

All bald or golden eagle use areas, including but not limited to; nesting areas, winter roost areas, and foraging areas, identified within or in close proximity to the proposed project should be reported to our office immediately. The information on bald or golden eagles and data gathered through these survey efforts will be utilized by our office to provide recommendations to assist the project proponent in reducing potential impacts to bald and golden eagles.

The Service recommends the project be monitored post-construction to determine impacts to migratory birds and bats. A specific post-construction monitoring plan should be prepared and reviewed by the Service and should include a scientifically robust, peer reviewed methodology of mortality surveys. The duration of post construction surveys is project specific, generally the Service recommends that post-construction surveys be conducted for a minimum of three years following construction to assess impacts to birds and bats. We also recommend that the post-construction mortality studies be conducted by an independent third party contractor with expertise in bird/bat mortality monitoring. Results of mortality surveys and other forms of monitoring should be used to adjust operations to reduce mortality if necessary and feasible, as well as improve design and siting of future wind generation facilities. **The Developer or its contractor should provide to this office each year, no later than December 31, copies of annual bird/bat mortality monitoring reports.**

Thank you for the opportunity to provide comments on this proposed project. Please contact Rich Davis, Fish and Wildlife Biologist, at (612) 725-3548, ext. 2214 if we can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Tony Sullins". The signature is written in a cursive style with a large, looped initial "T".

Tony Sullins
Field Supervisor

cc: Jamie Schrenzel, MN DNR
Scott Glup, USFWS Litchfield WMD