

# FAX TRANSMISSION

U.S. FISH AND WILDLIFE SERVICE  
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AUG 20 2010

PUBLIC SERVICE COMMISSION

**To:** North Dakota Public Service Commission      **Date:** August 20, 2010

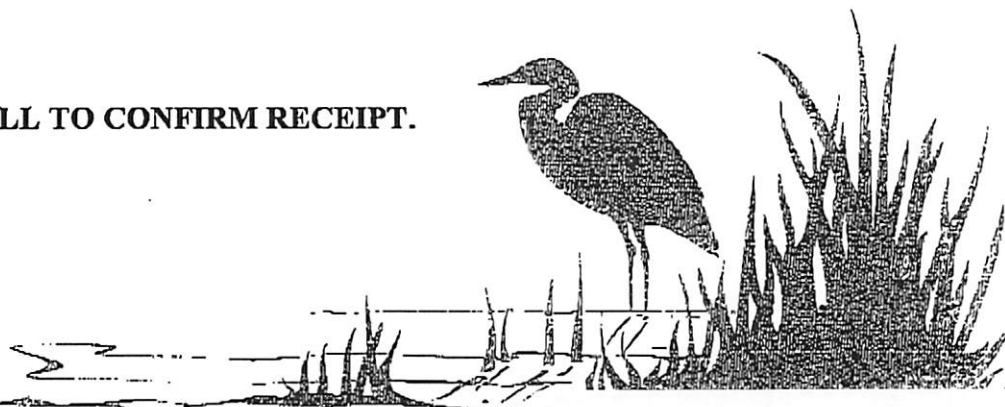
**Fax #:** 701-328-2410      **Pages:** 3 Pages including cover sheet.

**From:** Terry Ellsworth

**Subject:** Case No. PU-09-370 Testimony for August 23, 2010, Public Hearing Ashley Wind Energy Project

COMMENTS: Please accept the submission of this letter for you files on the subject case.

**PLEASE CALL TO CONFIRM RECEIPT.**





# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
3425 Miriam Avenue  
Bismarck, North Dakota 58501



**AUG 20 2010**

Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505

Dear Commissioners:

The U.S. Fish and Wildlife Service (Service) has reviewed the June 30, 2010, Notice of Filing and Notice of Hearing (Notice) for Case No. PU-09-370, regarding CPV Ashley Renewable Energy Company, LLC's (CPV) application for a site compatibility to authorize construction of its Ashley Wind Energy Project (Project) consisting of 87 wind turbine generators totaling up to approximately 200.1 megawatts (MW) of generating capacity and associated facilities in McIntosh County, North Dakota. We offer the following comments under the authority of and in accordance with the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668d, 54 Stat. 250), and Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.).

The Service's North Dakota Field Office is currently providing technical assistance on the subject project to the applicant (CPV) and the Tennessee Valley Authority (TVA), the Federal action agency. The Fish and Wildlife Service supports the responsible development and transmission of renewable, sustainable energy sources, including wind energy. However, wind energy developments and the transmission facilities constructed to transmit the electricity generated may present threats to wildlife and their habitats. In general, the wildlife resources and issues that warrant consideration during project planning include: bald and golden eagles, migratory birds and bats (e.g., potential for habitat fragmentation, collisions and electrocutions); Federal land interests; native wetland, prairie, and woodland habitats; threatened and endangered species; and monitoring, research, and assessment. The Fish and Wildlife Service encourages all energy facility developers to plan, design, construct, and operate their projects in such a manner that fish and wildlife resource conservation is given equal consideration with other features of project development. Some of the issues that are currently being discussed with our office and will need to be resolved prior to project construction include:


- Potential project effects to the federally threatened piping plover and endangered whooping crane and what measures the applicant will take to avoid, minimize, and, as needed, off-set those effects.
- Potential adverse impacts to bald and golden eagles, migratory birds and bats and their habitats, and agreement on an acceptable project specific Avian and Bat Protection Plan.

- Adequate wildlife survey, monitoring, and reporting procedures.

The Service in consultation with the Federal Action Agency (TVA) and the applicant continue to work to resolve the above issues which may require modification of the project as currently proposed. Providing testimony at the Public Hearing prior to completion of the Federal review process may put the applicant at risk of presenting incomplete project information to the Commission. The Service suggests that the Commission urge project proponents to confirm their compliance with all Federal environmental laws and regulations before they present their project to the Commission.

Thank you for the opportunity to comment on the proposed Project. If you require further information, please contact Terry Ellsworth of my staff, or contact me directly, at (701) 250-4481, or at the letterhead address.

Sincerely,

  
for Jeffrey K. Towner  
Field Supervisor  
North Dakota Field Office

cc: Special Agent, Bismarck  
Tennessee Valley Authority, Knoxville, TN  
(Attn: P. Shute)