



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
3425 Miriam Avenue  
Bismarck, North Dakota 58501



MAR 9 2011

Mr. Henry Ford  
Montana-Dakota Utilities Company  
400 North Fourth Street  
Bismarck, North Dakota 58501-7926

Re: Montana-Dakota Utilities Co.'s proposed  
Merricourt Wind Farm to Ellendale 230kV  
transmission line project conservation  
measures and marking plan

Dear Mr. Ford:

The U.S. Fish and Wildlife Service (Service) has reviewed the Montana-Dakota Utilities Company's (MDU) proposed conservation measures, line marking plan, and Cultural Resources Memorandum on the LSB Waterfowl Production Area (WPA) for the proposed 230 kilovolt (kV) Merricourt Wind Facility to the Ellendale Junction Substation transmission line project, which was attached to your January 28, 2011, letter. MDU is proposing to construct an approximately 30-mile-long 230 kV transmission line from their existing Ellendale Junction Substation to a proposed Merricourt Wind Facility Interconnect Substation. Approximately 18 of the 30 miles would be co-located with MDU's existing 41.6 kV transmission line that crosses the LSB WPA. The existing 41.6 kV transmission line structures would be removed and new 230 kV transmission line structures that are slightly larger in size would be installed. The new larger structures would be wood H-frame with both circuits installed one above the other in a horizontal configuration. In October and November 2010, MDU conducted wetland delineations and a Class III cultural resources survey of the proposed route. 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), Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), and the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57). Please also reference our previous comments on this proposed project dated June 24, 2010.

MDU has committed to implementing the following conservation measures to protect threatened and endangered species and migratory birds.

- Design and site the transmission line and structures according to Avian Power Line Interaction Committee's (APLIC) 2006 Suggested Practices for Avian Protection on Power Lines and Mitigating Bird Collisions with Power Lines: The State of the Art in 2006.

- Site the entire length of the transmission line adjacent to existing transmission lines and a State highway and upgrading portions of the existing Ashley to Ellendale 41.6 kV transmission line.
- Site the interconnect substation adjacent to the collector substation to eliminate aboveground transmission lines for the wind project.
- Design the transmission structures to reduce the number of wire planes.
- Mark both shield wires of the transmission line in an alternating pattern with a spiral-type visual marking device.
- Provide the Service with written confirmation that the shield wires were marked and the location of markers per the February 4, 2010, Region 6 Guidance for Minimizing Effects from Power Line Projects Within the Whooping Crane Migration Corridor.
- Conduct preconstruction surveys for wetlands to avoid direct impacts to wetlands.
- Perform field surveys to identify wetland basins protected by Service conservation easements.
- Work with the Service's Kulm Wetland Management District to remove existing 41.6 kV transmission line structures from wetlands under Service easements and site new transmission line structures outside of wetland boundaries.
- Replace trees at a 2:1 ratio.
- Incorporate the proposed project into MDU's existing Avian Protection Plan.
- Conduct tree removal, ground clearing, or mowing prior to the nesting season to discourage tree and ground nesting birds from initiating nests. Typical, nesting season would be from April to August. (See Service recommendations below.)
- If the right-of-way (ROW) is not cleared of vegetation in early spring before the breeding season, a qualified biologist would survey the proposed route for active nests and provide a construction buffer if active nests are identified.
- Avoid refueling vehicles within 100 feet of a waterway's edge to minimize the potential for hazardous-materials spills reaching the waterway.

The Service provided a recommendation in our June 24, 2010, letter to avoid construction during the migratory bird nesting season (February 1 to July 15). This time period is protective of early nesting birds, such as great horned owls and bald and golden eagles, as well as birds that initiate nesting later, such as waterfowl or passerines. Therefore, we recommend MDU conduct any site preparation activities (tree removal, ground clearing, or mowing) outside this time period or have a qualified biologist survey the route for nesting migratory birds or eagles prior to conducting these activities to avoid take of birds or nests. The implementation of MDU's proposed conservation measures, with the Service's recommendations included, will help to minimize impacts to threatened and endangered species and migratory birds from construction and operation of the proposed transmission line. The North Dakota Field Office coordinated with Mr. Brian Hunker, HDR Inc., in developing MDU's proposed line marking plan. The line marking plan attached to your January 28, 2011, letter complies with the February 4, 2010, Region 6 Guidance for Minimizing Effects from Power Line Projects within the Whooping Crane Migration Corridor. The Service concurs with MDU's line marking plan as proposed, and we believe that the potential effects to the whooping crane from the proposed project are reduced to an insignificant or discountable level.

The Service recommends that MDU plant only native tree species to replace the trees lost to construction of the proposed project. The replacement trees should be planted in habitats that typically include native tree species, such as wooded draws and riparian forest. Otherwise we recommend that non-native trees growing in prairie areas where they do not naturally occur should be removed and not replaced.

Mr. Mick Erickson, Project Leader, Kulm Wetland Management District, has provided the following comments and recommendations to address Service property interests along the proposed project route. Service fee title lands (LSB WPA), wetland easements and grassland easements, have been purchased with the existing 41.6kV transmission line in place. Table 1 below lists the locations and purchase dates of the USFWS easements/fee-title tract and the transmission line easement dates. Service easements and fee-title lands are subject to existing ROWs. The 12 miles of newly constructed transmission line will need to be reviewed for potential impacts to Service easements when final designs are completed.

Table 1: Service Fee Title and Easement Lands Crossed by the Existing 41.6 kV Transmission Line Right-of-Way.

<b>USFWS Fee Title Land or Easement (Date purchased)</b>	<b>Location (Date of right-of-way and easement number)</b>
Grassland & Wetland Easement (3-27-2000 & 10/4/1996)	T. 129 N., R. 66 W., Section 2, E½NE¼ (6/26/1950; E-43)
Grassland & Wetland Easement (3-27-2000 & 12/7/1999)	T. 129 N., R. 66 W., Section 1, NW¼ (6/6/1950; E-45)
LSB WPA (7/7/1989)	T. 129 N., R. 66 W., Section 1, NE¼ (6/7/1950; E-46)
Wetland Easement (8/16/2006)	T. 129 N., R. 65 W., Section 11, NE¼ (9/19/1950; E-53)
Wetland Easement (7/16/1977)	T. 129 N., R. 64 W., Section 8, N½ (6/26/50; E-58)
Wetland Easement (7/7/1965)	T. 129 N., R. 64 W., Section 12, N½ (5/15/1950; E-63) & (7/10/1950; E-64)

- Limit travel across the WPA to an absolute minimum. Keep vehicles and equipment along the route or limit it to one trail versus entering/exiting the WPA in numerous locations or driving all over the WPA.
- Install the new poles/lines after the nesting season or August 1.
- Remove all poles from the WPA.
- Avoid placing poles in all wetland basins.
- In T. 129 N., R. 64 W., Section 8, N1/2, adjust the span lengths between poles to avoid wetland basins. Pole # 133/134 and pole # 121/122 are located near wetland basins.
- In T. 129 N., R. 64 W., Section 12, N1/2, adjust the pole # 59/60, 57/58, and 53/54 to avoid wetland basins.
- In T. 129 N., R. 66 W., Section 1, NW1/4, poles #459/460 are located close to wetland basins. Poles #461/462 are located in a wetland basin. Attempts should be made to avoid these basins.

Mr. Barry Williams, Region 6 - Dakotas Zone Archaeologist, has reviewed the cultural resources memorandum on the LSB WPA attached to your January 28, 2011, letter. The only recorded site on Service managed land (LSB WPA) within the project's area of potential effect, site MDU-11, will be protected from adverse effects during construction. MDU has proposed additional survey by shovel testing along the corridor route within the WPA as weather permits. This survey is a good faith effort to discover all historic properties that could be affected by the project on Service managed land. Therefore, with the protection of site MDU-11 and any sites discovered during the additional survey, the Service does not have any remaining concerns for cultural resource protection.

Thank you for the opportunity to comment on this project. If additional information is required, please have your staff contact Terry Ellsworth of my staff, or contact me directly, at (701) 250-4481 or at the letterhead address.

Sincerely,



Jeffrey K. Towner  
Field Supervisor  
North Dakota Field Office

cc: Project Leader, Kulm WMD  
Region 6 - Dakotas Zone Archaeologist, Bismarck  
Director, ND Game & Fish Department, Bismarck  
(Attn: P. Schadewald)