

48,000 acre Study Area for the Project. A copy of the consultation letter sent to agencies is attached as Exhibit A.

5. In 2013, in response to the consultation letter from KLJ, the USFWS sent a letter in which it indicated that, based on USFWS data, "there is a documented eagle nest within the proposed project's study boundary and several other bald eagle nests in proximity to your proposed project area." A copy of the USFWS's letter attached as Exhibit B.

6. On May 30, 2013, a response to the consultation letter was also received from the NDGFD. The letter made no reference to bald eagle nests within or in proximity to the Project's Study Area. A copy of the NDGFD's letter is attached as Exhibit C.

7. The NDGFD maintains a database of environmental resources, which includes raptor nests. KLJ has access to this database via a license with the NDGFD. During environmental review of the Project, KLJ reviewed the NDGFD database, which did not identify any eagle nests within or in proximity to the Project's Study Area.

8. Rolette Power and KLJ met with the USFWS North Dakota Field Office in Bismarck, North Dakota, on June 25, 2012 and December 17, 2014 to discuss the Project and wildlife-related matters. During those meetings, the USFWS did not identify any specific concerns with respect to eagles. At the 2014 meeting, KLJ indicated that it believed that the eagle nest reference in the USFWS's 2013 letter may be an error and requested additional information from the USFWS regarding the presence or absence of an eagle nest within the Project's Study Area. However, the USFWS did not provide any additional information.

9. In the spring and summer of 2015, KLJ conducted field surveys of the Project area. No eagle nests were identified within the Project Area.

10. On June 18, 2015, KLJ sent a follow-up e-mail to the NDGFD requesting any further comment regarding the Project, but did not receive a response to that e-mail. A copy of the e-mail to the NDGFD is provided in Exhibit E (discussed further in Paragraph 16 below).

11. At the June 29, 2015 public hearing on Rolette Power's Application, the North Dakota Public Service Commission ("Commission") requested additional information regarding the eagle nest reference in the USFWS's letter, and Rolette Power agreed to provide such information as a condition to an order granting a Certificate of Site Compatibility for the Project. As such, Rolette Power's proposed Findings of Fact, Conclusions of Law and Order filed with the Commission on July 20, 2015, included the following as Order Paragraph No. 16 on page 11: "Rolette Power will submit additional documentation to the Commission regarding the presence or absence of eagle nests in proximity to the Project prior to beginning construction of the Project."

12. On July 14, 2015, I consulted with Kevin Shelley with the USFWS regarding the USFWS's letter and the presence or absence of eagle nests within or in proximity to the Project's Study Area. Mr. Shelley directed me to contact the NDGFD.

13. On July 16, 2015, I contacted Sandra Johnson with the NDGFD. On the same date, the NDGFD provided KLJ with eagle nest data for an area within 5 miles of the Project, which identified two active bald eagle nests. Copies of my e-mail to Ms. Johnson and her response are provided in **Exhibit D** (see the July 16, 2015 e-mails in the exhibit). The July 16, 2015 eagle nest data provided by the NDGFD was not included in the NDGFD eagle nest database to which KLJ has access via a license with the NDGFD (see July 16, 2015 e-mails in Exhibit E). The closest nest identified in the NDGFD database to which KLJ has access is 18 miles north of the Project.

14. On July 22, 2015, KLJ field-verified the location and status of the two eagle nests within 5 miles of the Project Area, both of which were confirmed to be active. One eagle nest is approximately 2.4 miles from the Project Area boundary (or approximately 2.7 miles from the nearest turbine location), and the other eagle nest is approximately 4.5 miles from the Project Area boundary (or approximately 5.0 miles from the nearest turbine location). The closest bald eagle nest is within the Study Area, but no eagle nests were identified within the Project Area.

15. On July 23, 2015, I provided KLJ's field-verification notes, photographs and nest location maps to Kevin Shelley with the USFWS and Sandra Johnson with NDGFD via e-mail, indicated I would like to discuss how to proceed, and inquired regarding scheduling a meeting or proceeding using other means of communication. A copy of my e-mail to Mr. Shelly and Ms. Johnson, with attachments, is provided in Exhibit E (*see* the July 23, 2015 e-mail). To date, I have not received a response.

16. On August 19, 2015, Rolette Power filed documentation regarding the eagle nest in proximity to the Project with the Commission, which included an affidavit from me, as well as a map depicting the two NDGFD identified bald eagle nests and the NDPRD identified bald eagle nest in relation to the Study Area and the Project Area for the Project. A copy of that submission is attached as **Exhibit E**.

17. In October 2015, KLJ, on behalf of Rolette Power, retained Western Ecosystems Technology, Inc. ("WEST"), to assist with eagle-related analysis for the Project, including the preparation of a Stage I Eagle Use/Risk Assessment for the Project.

FURTHER AFFIANT SAYETH NOT.

Grady Wolf
Grady Wolf

Subscribed and sworn to before me
this 1 day of November, 2015.

T. Mongeon
Notary Public

TERRI J. MONGEON
Notary Public
State of North Dakota
My Commission Expires Mar. 18, 2017

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