

"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

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GOVERNOR, *Doug Burgum*

DIRECTOR, *Terry Steinwand*

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November 6, 2017

ND Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480



**RE: Proposed Foxtail Wind Farm Project
Dickey County, North Dakota**

As the pressures of energy development on North Dakota's landscape increase, the North Dakota Game and Fish Department (Department) entered into a collaborative effort with The US Fish and Wildlife Service and energy partners over the last year with the goal of developing state specific wind energy guidelines that ensure the viability and sustainability of North Dakota's public trust wildlife resources are appropriately addressed. NextEra has been a key player in this collaboration and their cooperation, input, and time has been of great value to this process.

During this transition as new guidelines are being created, the Department has committed to assisting each individual developer with incorporating both the previous standards of wind development and the new state guidelines. On September 19th, 2017, the Department contacted NextEra Energy Resources, LLC about their Wildlife Conservation Strategy (WCS). The Department expressed a number of concerns on the WCS as presented (see enclosed email) but is unaware if any have been addressed to date.

Above all, the Department reiterated its concerns of the deleterious effects habitat loss and continued fragmentation of native, unbroken prairie has on many of the state's wildlife and, in particular, the majority of the 115 Species of Conservation Priority. The small remaining tracts of unbroken prairie are becoming increasingly rare and are, therefore, extremely vital to a vast number of declining bird, small mammal, amphibian, reptile, and pollinator species, as well as North Dakota's highly prized game species. Subsequently, we have determined unbroken prairie to be one of the highest valued resources in our state.

47 **PU-17-284** Filed: 11/13/2017 Pages: 4
Comments

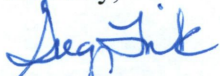
North Dakota Game & Fish Department

Greg Link, Chief

A considerable portion of the project area is composed of this vital ecosystem and the Department has urged NextEra address the loss of unbroken prairie, and the services it provides to an array of North Dakota wildlife, due to the project. The Department suggested NextEra develop an offset package for the permanent impact of roads and turbine pads that are to be constructed within unbroken prairie habitat \geq 160 acres and any CRP-SAFE tracts (a program designed to maintain or increase populations of high-value or high priority wildlife species). The Department recommended that this offset package include indirect effects of the fragmentation of the unbroken prairie habitat of up to 100 meters from new or improved roads and 200 meters of turbine sites.

In summary, the Department neither stands in opposition nor support of the project, but believes addressing these issues and moving forward with the creation of an offset package is essential as NextEra continues to develop a responsible project on the North Dakota landscape.

Sincerely,



Greg Link
Chief, Conservation and Communications Division

Cc: Kimberly Wells, NextEra Energy Resources
ND Office of the Governor
Kevin Shelley, US Fish and Wildlife Service

Kim,

The following are the North Dakota Game and Fish Department's comments on the Draft Foxtail Wildlife Conservation Strategy:

- There are 115 Species of Conservation Priority (SCP) identified in the 2015 North Dakota State Wildlife Action Plan (SWAP). The WCS states there are 100, which is the number from the 2005 plan.
- In Section 2.5 State Protection, only the SCP are mentioned. Note that per North Dakota Century Code 20.1-04, all game birds, harmless wild birds, and their nests are protected by state law.
- For assessing risk to Whooping Crane, also utilize the Pearse et. al 2015 map of Whooping Crane stopover site use intensity:
<https://www.sciencebase.gov/catalog/item/56253ce5e4b0fb9a11dd3d2b>. Pearse, A.T., Brandt, D.A., Harrell, W.C., Metzger, K.L., Baasch, D.M., and Hefley, T.J., 2015, Whooping crane stopover site use intensity within the Great Plains: U.S. Geological Survey Open-File Report 2015-1166, 12 p., <http://dx.doi.org/10.3133/ofr20151166>.
- The WCS indicates the project area does not fall within a SWAP focus area but this is untrue. The project falls within the Missouri Coteau Breaks Focus Area.
<https://gishubdata.nd.gov/dataset/game-and-fish-action-plan-focus-areas>
- The nearest USGS BBS route is not the Edgeley route. The Danzig route (#64006) is closer and has much similar habitat to the project area, including prairie and wetlands. The Edgeley route is nearly all cropland. The Edgeley route starts 14 miles from project and ends 35 miles away (middle of route approximately 28 miles from project center); Danzig starts 26 miles from project and ends 6 miles from project (middle of route approximately 18 miles from project center). We recommend revising Table 4 with Danzig route information.
- Throughout the WCS, much emphasis is placed on Sprague's Pipit and Baird's Sparrow, but not Chestnut-collared Longspur. The Chestnut-collared Longspur is another grassland obligate species that federal and state agencies have prioritized. The Chestnut-collared Longspur has experienced steeper population declines (-85% from 1974-2014, Rosenberg et. al 2016) than Sprague's Pipit (-75%) and Baird's Sparrow (-71%). At the rate of decline, it is estimated that in 17 years the population will be half of what it is now in the Prairie Pothole landscape. Chestnut-collareds prefer moderately to heavily grazed native prairie. Rosenberg, K.V., J. A. Kennedy, R. Dettmers, R. P. Ford, D. Reynolds, J.D. Alexander, C. J. Beardmore, P. J. Blancher, R. E. Bogart, G. S. Butcher, A. F. Camfield, A. Couturier, D. W. Demarest, W. E. Easton, J.J. Giocomo, R.H. Keller, A. E. Mini, A. O. Panjabi, D. N. Pashley, T. D. Rich, J. M. Ruth, H. Stabins, J. Stanton, T. Will. 2016. Partners in Flight Landbird Conservation Plan: 2016 Revision for Canada and Continental United States. Partners in Flight Science Committee. 119 pages.
- The spring avian survey period (17-March to 11 June) was insufficient for detecting breeding birds. The key time frame for detecting breeding grassland birds is May 1 – July 15. For example, Sprague's Pipits have a bimodal display period, with two general time frames of late April – mid May and again from mid-June – early August.
- The NDGF has not yet received the GIS data for eagle and other raptor nests discovered during the raptor surveys.
- The baseline habitat assessment separates grassland/herbaceous and hay/pasture (land cover), but does not specify which of each category is unbroken.
- The habitat assessment solely focused on two ESA Lepidoptera species. However, this assessment is meant to be a proactive, rather than reactive, approach and SWAP species of concern should be considered when evaluating the presence of native habitat.

- Moving forward, it will be important to know exactly how much unbroken prairie is going to be impacted by development. Subjective statements such as “high quality prairie could be avoided” don’t help quantify the actual loss of the resources.
- As for the topic of quality, it is important to remember that the prairie changes both seasonally and annually. Climate, natural disturbance, and grazing pressure all impact the physical and biological aspects of the prairie, in both negative and positive ways. A prairie is not a stagnant ecosystem and a single assessment of its ‘quality’ tells us little to nothing of its true value to wildlife.
- The offsets mentioned only included re-seeding temporary disturbance with native species and replacing any tree or shrub lost due to development according to PSC; however, there is no mention of any type of offset for the permanent loss of the resources.
- Two of the turbine locations, #38 and #44, appear to be sited on CRP-SAFE tracts. This CRP program is designed to maintain or increase populations of high-value or high priority wildlife species. We recommend seeking alternative sites on non-SAFE sites but not on unbroken grassland.
- The WCS states that: “Much of the land in the Project area is used for cattle ranching and agriculture and is thus already disturbed or fragmented.” At face value this comment suggests that grazing causes fragmentation of the landscape. If that is the intended message, we do not agree. We suggest this statement be rewritten or fleshed out to explain its intent.

Figure 8 is the most important map in the document. This map illustrates the vast amount of contiguous, unbroken grassland in the project area. It is nearly an exact match to where we have spatially modeled remaining unbroken grassland. We recommend an offset package be developed for the permanent impact of roads and turbine pads that will be constructed within “Native Prairie Habitat \geq 160 acres” and any CRP-SAFE tracts. The offset package should include indirect effects of the fragmentation of the native prairie habitat of up to 100 meters from new or improved roads and 200 meters of turbine site.

Thank you and let us know if you’d like to discuss any of these comments further.

Sandy

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