

"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

GOVERNOR, *Doug Burgum*

DIRECTOR, *Terry Steinwand*

DEPUTY, *Scott A. Peterson*

December 7, 2018

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

Subject: Emmons-Logan Wind Energy Center and Transmission Line Project
Emmons and Logan Counties, ND

Mr. Nitschke,

The North Dakota Game and Fish Department has been in discussion with proponents of the Emmons Logan Wind Energy Center since 2017. During consultations, the Department emphasized the importance of careful placement of turbines, roads, and other associated infrastructure, avoiding to the extent possible any impacts to native unbroken prairie, woodlands, and wetlands. Based on these discussions, a number of turbines were relocated to avoid native habitats. The Department applauds the efforts made by NextEra Energy to minimize impacts to our state's Species of Conservation Priority and the habitat resources they rely on. We are pleased the proactive collaboration between the Department, the U.S. Fish and Wildlife Service, and project proponents resulted in beneficial modifications to the project.

However, because the project is located within the Missouri Coteau, an incredibly resource-rich landscape with a considerable amount of native prairie and a concentration of wetlands, it is unlikely that impacts to wildlife can be totally avoided. Though much of the project area has been significantly altered by agriculture, there is still a substantial amount of relatively unbroken native habitats. The project proponents have managed to lessen impacts to wildlife and native habitats by siting turbines on previously altered land but have not eliminated wildlife displacement in native habitat adjacent to the turbines nor the risk of collision fatalities.

In our review and analysis of impacts to wildlife, the Department quantifies both the direct and indirect impacts associated with wind energy development. To do this, we are using the best available science conducted in North Dakota on avoidance and displacement due to wind development: Loesch et al. 2013 and Shaffer and Buhl 2016. Loesch et al. 2013 assessed the displacement of breeding waterfowl pairs on wetlands associated with wind farms in the Prairie Pothole Region. This study found an average rate of 21% displacement by five waterfowl species within a half mile of turbines. Shaffer and Buhl 2016, used a Before-After-Control-Impact (BACI)

method to evaluate grassland bird displacement associated with turbines. They found avoidance from turbines by seven grassland bird species and a 55% displacement rate by the 5th year post-construction. By using the parameters within these studies, the impacts can be estimated for both grassland birds and breeding ducks, indicator species that reflect the use of habitats for a variety of other species. Using this scientific information, we believe there will be adverse indirect impacts that should be offset.

In a September 2018 meeting, NextEra Energy had indicated to the Department they would be developing a voluntary offset for the impacts to grassland and wetland habitat. In addition, the *Emmons Logan Wind Energy Project Wildlife Conservation Strategy* dated October 23, 2018 states: “Emmons-Logan Wind intends to implement measures to offset impacts to important resources, such as unbroken native prairie, that cannot be practicably avoided.” The Department was encouraged by NextEra’s initiative and stewardship resolve. For our overall review and ability to provide insight on the project, however, we requested on several occasions to be apprised, prior to permit application, of the specific offset measures they were proposing to provide as part of the project (see attached correspondence). After receiving no further indications or details about their offset offer, the Department contacted NextEra via email on November 28, 2018 to again ask about the status of the voluntary offset package. NextEra subsequently indicated in a November 30, 2018 email that they will not be providing a voluntary offset option until after the December 7th PSC hearing.

Thanks to the efforts by NextEra Energy to relocate turbines off unbroken prairie, the impacts to important wildlife resources have been greatly reduced in comparison to the project’s original design. Nonetheless, a modest level of impacts will still be incurred for the life of this project. As indicated, NextEra Energy previously acknowledged this long-term impact and had suggested that development of offsets was appropriate. We found NextEra Energy’s leadership and initiative toward addressing those impacts responsible and very promising. Because of this expectation, however, we are disappointed to hear just prior to the hearing date that NextEra’s is no longer willing to voluntarily address impacts they’d earlier recognized and acknowledged. This is disheartening as it leaves this issue unresolved, especially when NextEra’s expressed goals have been transparency and early resolution.

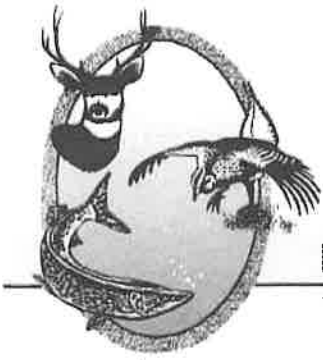
Sincerely,



Greg Link

Chief, Conservation and Communications Division

Cc: Dustin Jones, NextEra Energy
Scott Larson, U.S. Fish and Wildlife Service



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GOVERNOR, *Doug Burgum*

DIRECTOR, *Terry Steinwand*

DEPUTY, *Scott A. Peterson*

November, 2 2018

Dear Mr. Jones:

The North Dakota Game and Fish Department (Department) received your email on November 2nd discussing differing recommendations from the Department and the United States Fish and Wildlife Service (Service). We would like to formally clear up any misunderstandings on the subject.

The Department's guidance letter on the Emmons-Logan project, dated May 22, 2018, was sent out while the draft guidelines were still being developed. As such, the suggested voluntary offset package stemmed from those guidelines. On July 25th, however, the collaborative process of further developing these guidelines was halted.

Since that time, the Department has stressed the importance of following the best available science to determine if a voluntary offset package is needed and, if so, what that would look like. We concur with the Service that the best available science addressing North Dakota resources are Loesch et al. 2013 and Shaffer and Buhl 2016 and that these papers should be used to help guide you in developing a voluntary offset package. Specifically, the Department is in full agreement with the Service's statement: *"If this project proceeds, we recommend quantification of wetlands within 1/2 mile of turbines, of grasslands within 300 m of turbines, and then application of the displacement rates from the Loesch et al. 2013 and Shaffer and Buhl 2016 studies to determine and disclose anticipated indirect impacts. This information is needed to adequately develop an appropriate mitigation plan to offset this form of habitat loss and we encourage project developers to provide that plan as part of the project"*.

If you should have any questions on the matter, please do not hesitate to reach out.

Sincerely,

Greg Link
Chief, Conservation and Communications Division

Cc: Scott Larson, US Fish and Wildlife Service
ND Public Service Commission

Johnson, Sandra K.

From: Mueller, Elisha K.
Sent: Friday, November 2, 2018 2:08 PM
To: Jones, Dustin; Dyke, Steve R.; Johnson, Sandra K.; scott_larson@fws.gov; natalie_gates@fws.gov
Cc: Link, Greg W.; Cameron, Clay; Wells, Kimberly
Subject: RE: Emmons-Logan DRAFT Wildlife Conservation Strategy
Attachments: Follow up Letter.pdf

Dustin,

Please see the letter attached to clear up any confusion.

Elisha

From: Jones, Dustin <Dustin.Jones@nexteraenergy.com>
Sent: Friday, November 2, 2018 10:00 AM
To: Dyke, Steve R. <sdyke@nd.gov>; Johnson, Sandra K. <sajohnson@nd.gov>; scott_larson@fws.gov; natalie_gates@fws.gov
Cc: Link, Greg W. <glink@nd.gov>; Mueller, Elisha K. <ekmueller@nd.gov>; Cameron, Clay <Clay.Cameron@nexteraenergy.com>; Wells, Kimberly <Kimberly.Wells@nexteraenergy.com>
Subject: RE: Emmons-Logan DRAFT Wildlife Conservation Strategy

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Steve, thanks for your response. We have been working towards a voluntary offset proposal as discussed. However, we received recommendations from the USFWS on October 19th that differ from NDGFD recommendations, so that will take a little more time to incorporate. We are committed to working through the scenarios and note receiving differing recommendations with respect to offset calculation methods is challenging for an applicant with a late stage project.

We expect to provide a revised WCS, including our proposed offset package by late next week or early the follow week, then will follow-up shortly thereafter to discuss.

Dustin Jones | 737-221-1172

From: Dyke, Steve R. <sdyke@nd.gov>
Sent: Tuesday, 30 October, 2018 12:35
To: Jones, Dustin <Dustin.Jones@nexteraenergy.com>; Johnson, Sandra K. <sajohnson@nd.gov>; scott_larson@fws.gov; natalie_gates@fws.gov
Cc: Link, Greg W. <glink@nd.gov>; Mueller, Elisha K. <ekmueller@nd.gov>
Subject: RE: Emmons-Logan DRAFT Wildlife Conservation Strategy

CAUTION - EXTERNAL EMAIL

Dustin, yes we did receive your email. While we have not had time to review the entire document, we notice that the portion of the Draft WCS for Logan-Emmons that deals with offsets and/or compensation for habitat related impacts states the following... "to be updated based on resolution with agencies". We were of the understanding that the project sponsors were conducting internal meetings and would get back to us by Halloween (Oct. 31). As we are less

than 6 weeks away from the public meeting that has been scheduled (Dec. 7) for this project, we recommend Nextera initiate these discussions ASAP?

Also, as Dept. staff will be out of the office for considerable periods of time in Nov. & Dec. I would recommend that all correspondence on Emmons/Logan and Burke include Greg, Elisha, Sandra and myself. This will help us minimize inactivity when a particular staff member is out of the office. If you have questions, feel free to contact me.

Steve

From: Jones, Dustin <Dustin.Jones@nexteraenergy.com>

Sent: Monday, October 29, 2018 6:49 PM

To: Dyke, Steve R. <sdylke@nd.gov>; Johnson, Sandra K. <sajohnson@nd.gov>; scott_larson@fws.gov; natalie_gates@fws.gov

Subject: RE: Emmons-Logan DRAFT Wildlife Conservation Strategy

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Good evening, I just wanted to confirm that you received the draft WCS provided last week. Thanks.

Dustin Jones | 737-221-1172

From: Jones, Dustin

Sent: Wednesday, 24 October, 2018 05:01

To: Steve Dyke <sdylke@nd.gov>; Sandy Johnson <sajohnson@nd.gov>; scott_larson@fws.gov; natalie_gates@fws.gov

Cc: Derby, Clayton <cderby@west-inc.com>; Cameron, Clay (Clay.Cameron@nexteraenergy.com)

<Clay.Cameron@nexteraenergy.com>; Lindsey (Meyers) Churchill <lindsey.meyers@aecom.com>

Subject: Emmons-Logan DRAFT Wildlife Conservation Strategy

First, thank you for your time and input at our respective meetings on Aug 22 and Sept 19. Second, please find attached for your review and comment the Draft Wildlife Conservation Strategy for the Emmons-Logan Wind Energy Project. We respectfully request comments by Nov 14. A draft mitigation strategy will be available soon for review with plans to discuss via teleconference prior to the PSC hearing scheduled for Friday, December 7. We look forward to further collaboration.

Dustin Jones | Project Manager, Environmental Services, Mid Continent Region
601 Travis, Suite 1900 | Houston, TX 77002
O 713-951-5356 | C 737-221-1172 | Dustin.Jones@nexteraenergy.com

Mueller, Elisha K.

From: Dyke, Steve R.
Sent: Monday, December 3, 2018 8:37 AM
To: Johnson, Sandra K.
Subject: FW: Logan/Emmons Project

From: Jones, Dustin <Dustin.Jones@nexteraenergy.com>
Sent: Friday, November 30, 2018 4:08 PM
To: Link, Greg W. <glink@nd.gov>
Cc: Schuh, John M. <jschuh@nd.gov>; Nitschke, Darrell D. <dnitschk@nd.gov>; Scott Larson <scott_larson@fws.gov>; Gates, Natalie <natalie_gates@fws.gov>; Dyke, Steve R. <sdyke@nd.gov>; Mueller, Elisha K. <ekmueller@nd.gov>
Subject: RE: Logan/Emmons Project

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Greg,

We are still evaluating offset options. As part of our evaluation, we would like the opportunity to receive the Commission's input at the hearing. Thus, we are unable to provide additional details prior to the hearing. We have previously provided all of our wildlife reports, all requested geospatial data, and a draft of the Wildlife Conservation Strategy that details our comprehensive approach to siting including avoidance, minimization, and restoration measures. Our PSC application also includes summaries of our baseline studies and impact characterization. We remain committed to continued coordination with the wildlife agencies and will be back in touch as soon as we can after the hearing.

Sincerely,

Dustin

From: Link, Greg W. <glink@nd.gov>
Sent: Wednesday, 28 November, 2018 14:26
To: Jones, Dustin <Dustin.Jones@nexteraenergy.com>
Cc: Schuh, John M. <jschuh@nd.gov>; Nitschke, Darrell D. <dnitschk@nd.gov>; Scott Larson <scott_larson@fws.gov>; Gates, Natalie <natalie_gates@fws.gov>; Dyke, Steve R. <sdyke@nd.gov>; Mueller, Elisha K. <ekmueller@nd.gov>
Subject: Logan/Emmons Project

CAUTION - EXTERNAL EMAIL

Dustin,

The PSC hearing date for the proposed Logan/Emmons wind project is fast approaching. In September, your company had indicated that it would be developing a voluntary offset for the impacts to grassland and wetland habitat. Your WCS for that project also referenced potential offset development. We have yet to hear anything more about the proposal you referenced. I think everyone was in agreement that, if possible, we wanted to avoid surprises and either be on the same page, or at a minimum, be apprised of your voluntary offset proposal for the Logan/Emmons project by the end of October. Obviously, that deadline has passed and we do not have word of your proposal.

Could you please provide us a status of any offset development for this project. Thank you.
G.Link

Greg Link
Chief, Conservation and Communications Division
North Dakota Game and Fish Department
100 N. Bismarck Expressway
Bismarck, ND 58501
Phone: 701-328-6331
FAX: 701-328-6352
glink@nd.gov

*"To protect, conserve and enhance fish and wildlife
populations and their habitats"*