



"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*

March 7, 2019

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

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

Mr. Kahl,

The North Dakota Game and Fish Department first learned of the proposed Burke County Wind Energy Center at a joint agency meeting with NextEra and the United States Fish and Wildlife Service (Service) in September of 2016. During this first consultation, Department staff voiced considerable concern and indicated that the applicant "*could not have picked a worse spot in the state*" with regards to potential negative impacts to prairie and wetland wildlife species. Despite hearing these concerns, NextEra continued to move forward with the project, signing a Power Purchase Award (PPA) only one month later. It should be noted that this PPA was signed prior to any wildlife/habitat studies being done.

In a February 15, 2019 letter sent to the Department's Director, NextEra states "Burke Wind initially sited the project to adhere to the voluntary U.S. Fish and Wildlife Service (USFWS) Land-Based Wind Energy Guidelines (WEG) that address potential impacts to native and rare, declining, or sensitive wildlife species". As it reads, it seems NextEra is implying that this location was selected based on suggestions by the Service, which is not consistent with our understanding of the Service's comments. In early planning meetings, both the Department and the Service were transparent about the poor siting of this project. The Service has gone as far as recommending NextEra relocate the project entirely in a letter dated November 2018.

Also included in NextEra's aforementioned letter was a voluntary offset proposal. The offset package proposed is to address the residual direct impacts remaining after all other avoidance, minimization, and mitigation measures have been taken. Although NextEra has made significant efforts to 'reduce' their environmental footprint, we were disappointed with their misuse and misrepresentation of the voluntary WEG, as well as their subsequent decision to push forward with a project that has raised explicit concerns from both agencies. The grassland-wetland mosaic of this area is extremely valuable for a number of Species of Conservation Concern, such as

Sprague's pipit, lesser scaup, northern pintail, and whooping crane. Despite NextEra's efforts to minimize impacts, their initial site selection and succeeding resolve to proceed in this extremely resource-rich landscape shows poor resource regard and should not be rewarded.

On February 13th, the Department received a Whooping Crane Habitat Assessment Addendum, a Bat Habitat Assessment Addendum, and a Revised Grouse Lek and Raptor Nest Survey, all of which are dated November 27, 2018. The same day, we also received an Eagle and Avian Use Study dated January 31, 2018. On a call arranged just last week, NextEra provided the Department and the Service with a preliminary overview of how their accounting of project impacts and offsets was derived; however, we are still waiting for a detailed write-up of the proposed voluntary offset to review. With a hearing date of March 8th, we do not have the staff resources to analyze and digest all of these documents in such a short timeframe, especially for a project that has been highly controversial from the beginning.

As the state's lead wildlife agency, we recognize the important economic value provided to our state and its local communities from both wind energy development and our naturally-occurring resources. We acknowledge the key role wind energy has in the 'all of the above' strategy for energy in North Dakota and understand the difficult challenges of managing the risk to public wildlife resources and their habitats while advancing renewable energy development. Nevertheless, this state is blessed with abundant opportunities to develop and site wind projects to best balance these two important resources. As we have relayed from the start, the Department believes this project was ill-planned in its site selection relative to natural resources and, consequently, will have substantial impacts to native wildlife and their habitats.

Having just received NextEra's preliminary accounting of their perceived impacts and proposed offsets this week, we cannot make a full assessment of the project prior to the hearing. To fully analyze and evaluate the severity of these impacts and to determine if and how the proposed voluntary offset package will address them, the Department requests 30 days to review all the late-received reports and the offset write-up.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Link". The signature is fluid and cursive, with the first name "Greg" being more prominent than the last name "Link".

Greg Link
Chief, Conservation and Communications Division

Cc: Kimberly Wells, NextEra Energy
Scott Larson, U.S. Fish and Wildlife Service