United States Department of the Interior

FISH AND WILDLIFE SERVICE
North Dakota Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501

IN REPLY REFER TO:
06E15000 Bowman Wind Project

August 19, 2021

Mr. Ryan Henning
Vice President - Environmental
Apex Clean Energy, Inc.
310 4th St. NE, Suite 300
Charlottesville, VA 22902

Dear Mr. Henning:

Thank you for the opportunity to provide comments on your Bird and Bat Conservation Strategy (BBCS) for the proposed Bowman Wind Project (Project) in Bowman County, which we received on July 1, 2021. The U.S. Fish and Wildlife Service (Service) offers the following comments under the authority of and in accordance with the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq*.), the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq*.), and the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668d, 54 Stat. 250).

A BBCS is a life-of-a-project framework for identifying and implementing actions to conserve birds and bats during wind energy project planning, construction, operation, maintenance, and decommissioning. A wind project BBCS should be updated regularly as new information, including monitoring of project impacts and technical advancements, becomes available, and should also inform the need to develop other bird and bat conservation plans, such as an Eagle Conservation Plan (2013 USFWS Eagle Conservation Plan Guidance) or Habitat Conservation Plan (Endangered Species Act, section 10(a)(1)(B).

Lighting and Marking

According to your BBCS, the Project will include the construction and operation of up to a maximum 74 wind turbine generators (WTGs), ranging from 2.82 megawatts (MW) to 6.2 MW capacity, for a Project nameplate capacity of approximately 200 MW. In addition to the WTGs, the Project will include access roads, an underground electric collection system, a substation, an operations and maintenance (O&M) building, a temporary construction laydown area, and up to two permanent meteorological towers a transmission line extending approximately 0.74 miles (mi) from the Project substation to an existing transmission line. Bowman Wind has committed to designing the line consistent with Avian Power-Line Interaction Committee (APLIC) 2012 guidance. In addition to electrocution, overhead power lines also present the threat of avian line strike mortality. While marking of power lines reduces line strike mortality, it does not preclude it entirely. According to the BBCS, power lines associated with the Project are proposed to be buried to the extent practicable. If guidelines do not apply or measures cannot be incorporated into the Project's line designs, these will be delineated and discussed in future revisions to this

BBCS. Depending on final line design, the Service may recommend marking of additional, existing, overhead lines to further offset the potential for avian line strike mortality.

Additionally, the BBCS states that down lit lights at the substations would be illuminated only when maintenance workers are present. The two permanent, un-guyed meteorological towers would be about 120 m (394 feet) in height. The turbines and met towers would be equipped with red flashing L-864 type Federal Aviation Administration (FAA) lights for aviation safety. Subject to FAA approval and commercial availability, the required FAA lights would be controlled with Aircraft Detection Lighting System (ADLS) and turned on only when the system's radar detects approaching aircraft.

Eagles

As noted in our April 29, 2019, letter, southwest North Dakota has some of the last remaining intact grasslands and the state's only sagebrush ecosystem. Additionally, the majority of North Dakota's nesting golden eagles utilize this landscape. Bowman Wind has opted to pursue an Eagle Conservation Plan (ECP) in support of an Eagle Incidental Take Permit (EITP). We will continue to work with you on this effort.

Greater Sage Grouse

As stated in the North Dakota Game and Fish Department's (Department) July 22, 2021, letter to the Public Service Commission (PSC), state conservation strategies including the Department's *Management Plan and Conservation Strategies for Greater Sage Grouse* were instrumental in the Service's decision to keep the species off of the endangered species list. We recommend working with the Department to develop a plan that addresses the concerns regarding development within and near the priority conservation area (PCA).

Adaptive Management

The Tier 4 monitoring program proposed in the BBCS was designed to evaluate risk conclusions along with an Adaptive Management Plan to respond to findings, if necessary. According to the BBCS, "post-construction monitoring results will be evaluated in coordination with the [Service and the Department]". Depending on the findings of the post-construction monitoring, we may recommend additional measures and extended monitoring to adequately implement appropriate adaptive management.

Note that in 2020, the threatened status of the northern long-eared bat was challenged and the Service is currently working on a species status assessment (SSA). The SSA will also include tri-colored bat and little brown bat, the latter occurring in North Dakota. While we do not yet know the outcome of the assessment, we recommend considering impacts to these species during your post-construction monitoring and adaptive management.

Avian Impact Offset Method

The BBCS states that Bowman Wind will implement the model *Identification of Potential Offset Locations for 6 Species of Grassland Birds* outlined in Shaffer et al. 2019.The Service commends the use of this voluntary method to address the indirect impacts of displacement of grassland nesting birds. We recommend referring to the Department's July 22, 2021, letter,

regarding suggestions for final turbine layout and offset strategy. We look forward to working with Bowman Wind and the Department as this BBCS progresses to the implementation phase.

The Service appreciates your coordination with us regarding federal trust fish and wildlife resources. Should you have any questions regarding these comments, please have your staff contact Heidi Riddle of my staff at (701) 355-8545 or at the letterhead address, or contact me at (701) 355-8512.

Sincerely,

DREW BECKER

Digitally signed by DREW BECKER
Date: 2021.08.20 06:33:57 -05'00'

Drew Becker
ND Ecological Services Office Supervisor

cc: NDGF, Greg Link, Bismarck, ND
NDPSC, Steven Kahl, Bismarck, ND