



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Nebraska Field Office
203 West Second Street
Grand Island, Nebraska 68801

December 17, 2012

FWS-NE: 2012-419

Mr. Matt Marsh
Environmental Protection Specialist
Western Area Power Administration
P.O. Box 35800
Billings, MT 59107-5800

RE: Grande Prairie Wind Energy Development Northeast of the Town of O'Neill in Holt County, Nebraska

Dear Mr. Marsh:

This responds to your request for information from our April 25, 2012 meeting between our two agencies and representatives of Stantec and Olsson Associates, the environmental consulting firms hired by your agency and the project developer (Midwest Wind Energy). This letter constitutes early technical assistance regarding potential project effects to federally listed threatened and endangered species and other wildlife and their habitats and includes information gathered by Martha Tacha during a visit to the Grande Prairie Wind Project site on August 16, 2012.

The U.S. Fish and Wildlife Service (Service) has responsibility for the conservation and management of fish and wildlife resources for the benefit of the American public under the following authorities: 1) Endangered Species Act of 1973 (ESA), 2) Fish and Wildlife Coordination Act, 3) Bald and Golden Eagle Protection Act, and 4) Migratory Bird Treaty Act. The National Environmental Policy Act requires compliance with all of these statutes and regulations. The project proponent and lead federal agency are responsible for compliance with these federal laws. The Service has special concerns for endangered and threatened species, migratory birds, and other fish and wildlife and their habitats. Habitats frequently used by fish and wildlife species are wetlands, streams, riparian (streamside) woodlands, and grasslands. Special attention is given to proposed developments that include the modification of wetlands, stream alterations, loss of riparian habitat, or contamination of habitats. When this occurs, the Service recommends ways to avoid, minimize, or compensate for adverse effects to fish and wildlife and their habitats.

ENDANGERED SPECIES ACT

Pursuant to Section 7(a)(2) of the ESA, every federal agency, shall in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize

the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. If a proposed project may affect federally listed species or designated critical habitat, Section 7 consultation is required. As described in the April 12, 2012, letter we received from Mr. Nicholas Stas (Western Area Power Administration (WAPA)), WAPA has a responsibility to consult with the Service under Section 7 of the ESA. Your environmental assessment should include an analysis of both direct and indirect potential effects to the following federally listed endangered and threatened species from construction and operation of the Grande Prairie Wind Project.

Whooping Crane (*Grus americana*)

The federally endangered whooping crane may occur in the proposed project area. The whooping crane migrates through Nebraska during spring (generally March 23 through May 10) and the fall (generally October 1 through November 15) migrations. During migration periods, whooping cranes often stop to rest and feed, as well as roost during the night in shallow riverine or palustrine wetlands with good visibility. The proposed project occurs within the whooping crane migration corridor, and several whooping crane sightings have been confirmed in Nebraska east of described project area, as well as north of the project area along the Niobrara River. Therefore, the species may occur in or adjacent to the proposed project. Project facilities may affect whooping cranes both directly (through collision with turbines or power lines or disturbance during construction) or indirectly (through loss of habitat). One habitat requirements common to all migration stopover sites is a nocturnal roost area, characterized by shallow water, good visibility, and an absence of disturbance. Therefore, potential roost habitat within the project development area would likely not be used for roosting by migrating whooping cranes and would need to be mitigated. As noted by Misti Shriner during the site visit in August, your agency will conduct an analysis of potential project impacts to whooping cranes, separate from the initial analysis conducted by Stantec in June 2011.

American Burying Beetle (*Nicrophorus americanus*)

The endangered American burying beetle (ABB) occurs in Holt County and may occur within the project area. These nocturnal beetles search widely for carrion and may be found in prairie grasslands, forest edge, scrubland, and mesic areas such as wet meadows, and along streams and wetlands. The species serves an important role in nutrient cycling in the ecosystem. In Nebraska, the species has been observed from April 1 through October 29, with peak activity periods from late-May through August. During the majority of the year, the ABB occurs underground. Because construction of wind development projects involve disturbance to the soil while the beetles are underground, and construction activities may occur during the summer when the ABBs are above ground, it is possible that such projects may result in take of the species. However, the Service acknowledges the negative results of June 2012 ABB presence-absence surveys in the project area conducted by Dr. Wyatt Hoback of University of Nebraska, Kearney. If project construction is delayed substantially past the summer of 2013, the Service recommends the need for additional presence-absence surveys of the study area be considered.

Interior least tern (*Sternula antillarum*) and Piping Plover (*Charadrius melodus*).

The federally endangered interior least tern and the federally threatened piping plover nest on sandbars in the Niobrara River north of the proposed project area. Both of these species nest on bare or sparsely-vegetated sandy or gravelly areas between April 1 and August 15 in Nebraska. The proposed project area is sufficient distance from the nesting areas in the Niobrara River to avoid adverse effects during the nesting season. However, the migration routes used by these species between breeding and wintering areas to the south are not well-documented and you should assume potential impact to migrating individuals of both species.

Western Prairie Fringed Orchid (*Platanthera praeclara*)

Western prairie fringed orchids occur in native tall or mixed-grass prairie areas that are associated with wet meadows. Although the plant can be a colonizer species and grow on disturbed areas, it is found in greatest abundance on high quality prairie sites. This plant typically blooms in late-June to July, but has bloomed as early as the first week in June in recent years. Because the species does not bloom every year, the Service recommends a minimum of two years of orchid presence surveys be conducted during the blooming period and prior to construction of the project.

All federally listed species under ESA are also State-listed under the Nebraska Nongame and Endangered Species Conservation Act. However, there are also State-listed species that are not federally listed. The Service acknowledges and supports the conservation measures recommended by Michelle Koch, Nebraska Game and Parks Commission, in her letter dated May 25, 2012.

REVIEW, COMMENTS, AND RECOMMENDATIONS ON THE PROPOSED PROJECT ACTION UNDER OTHER FISH AND WILDLIFE STATUTES**Bald and Golden Eagle Protection Act**

The Bald and Golden Eagle Protection Act (Eagle Act) provides for the protection of the bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*). The golden eagle is found in arid, open country with grassland for foraging in western Nebraska and usually near buttes or canyons which serve as nesting sites. Golden eagles are often a permanent resident in the Pine Ridge area of Nebraska. Bald eagles utilize mature, forested riparian areas near rivers, streams, lakes, and wetlands and occur along all the major river systems in Nebraska. The bald eagle southward migration begins as early as October and the wintering period extends from December through March. Additionally, many eagles nest in Nebraska from mid-February through mid-July. Disturbances within 0.5-mile of an active bald eagle nest or within line-of-sight of the nest could cause adult eagles to discontinue nest building or to abandon eggs. Both bald and golden eagles frequent river systems in Nebraska during the winter where open water and forested corridors provide feeding, perching, and roosting habitats, respectively. The frequency and duration of eagle use of these habitats in the winter depends upon ice and weather conditions. Human disturbances and loss of wintering habitat can cause undue stress leading to cessation of feeding and failure to meet winter thermoregulatory requirements. These effects can reduce the carrying capacity of preferred

wintering habitat and reproductive success for the species. To comply with the Eagle Act, it is recommended that the project proponent determine whether the proposed project would impact bald or golden eagles. If it is determined that either species could be affected by the proposed project, the Service recommends that the project proponent notify this office as well as the Nebraska Game and Parks Commission for recommendations to avoid adverse impacts to bald and golden eagles.

Migratory Bird Treaty Act

Under the Migratory Bird Treaty Act (16 U.S.C. 703-712: Ch. 128 *as amended*) (MBTA) construction activities in grassland, roadsides, wetland, riparian (stream), shrubland and woodland habitats, and those that occur on bridges or culverts (e.g., which may affect swallow nests on bridge girders) that would otherwise result in the taking of migratory birds, eggs, young, and/or active nests should be **avoided**. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season period. For example, raptors can be expected to nest in woodland habitats during February 1 through July 15, whereas sedge wrens, which occur in some wetland habitats, normally nest from July 15 to September 10.

The Service recommends that the project proponent avoid removal or impacts to vegetation during the primary nesting season for migratory birds in Nebraska, from April 1 to July 15. In the event that construction work cannot be avoided during peak breeding season, the Service recommends that the project manager (or construction contractor) arrange to have a qualified biologist conduct an avian pre-construction risk assessment of the affected habitats (grassed drainages, streamside vegetation) to determine the absence or presence of breeding birds and their nests. Surveys must be conducted during the nesting season. Breeding bird and nesting surveys should use *appropriate* and *defensible* sampling designs and survey methods to assist the proponent in avoiding the unnecessary take of migratory birds. The Service further recommends that field surveys for nesting birds, along with information regarding the qualifications of the biologist(s) performing the surveys, be thoroughly documented and that such documentation be maintained on file by the project proponent (and/or construction contractor) until such time as construction on the proposed project has been completed.

The Service requests that the following be provided to this office prior to the initiation of the proposed project if the above conditions occur.

- a) A copy of any survey(s) for migratory birds done in conjunction with the proposed project, if any. The survey should provide detail in regard to survey methods, date and time of survey, species observed/heard, and location of species observed relative to the proposed project site.
- b) Written description of specific work activity that will take place in all proposed project areas.
- c) Written description of any avoidance measures that can be implemented at the proposed project site to avoid the take of migratory birds.

Additionally, a reach of the Niobrara River to the north of the project area is designated as a Wild and Scenic River. If you have not already done so, we recommend you contact the National Park Service (NPS) for comments regarding potential effects from the Grande Prairie Project to the Niobrara River view shed. Your contact at NPS is Ms. Lara Rozzell, who can be reached at Lara_R_Rozzell@nps.gov, or at (303) 969-2527.

The Service appreciates the opportunity to review and comment on the Grande Prairie Wind Project, and looks forward to the analysis by your agency regarding potential project impacts to the resources discussed above. Should you have questions regarding these comments, please contact Ms. Martha Tacha in our office at Martha_Tacha@fws.gov or (308)382-6468, extension 19.

Sincerely,



Michael D. George
Nebraska Field Supervisor

cc: NGPC; Lincoln, NE (Attn: Michelle Koch)
NPS; Denver, CO (Attn: Lara Rozzell)