

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40__



January 28, 2014

The Honorable Jeanne M. Cochran
Office of Administrative Hearings
P.O. Box 64620
600 North Robert Street
St. Paul MN 55164-0620

Re: Stoneray Power Partners, LLC Site Permit Application
PUC Docket Numbers: IP-6646/ WS-13-216
OAH Docket Number: 68-2500-31125

Judge Cochran:

The Minnesota Department of Natural Resources (DNR) has reviewed application materials for the Stoneray Wind Project, including the Site Permit Application, Draft Site Permit, and the Bird and Bat Conservation Strategy (BBCS), also serving as the Avian and Bat Protection Plan (ABPP). The DNR previously commented on the Site Permit Application, an earlier version of the Draft Site Permit, and the BBCS/ABPP. Project representatives, Burns and McDonnell, submitted responses to DNR comments. Two letters are attached capturing correspondence. The DNR appreciates changes made to the Draft Site Permit and most recent version of the BBCS/ABPP in response to comments. The following comment remains at this time.

Section 4.1 - Fatality Monitoring, of the updated BBCS/ABPP, discusses low risk survey protocols. Low risk survey protocols have been updated while drafting the document "Avian and Bat Survey Protocols for Large Wind Energy Conversion Systems in Minnesota" and are soon to be finalized. An excerpt of updated language regarding low risk protocols is attached. This more recent version of low risk protocols should be used in the BBCS/ABPP and for planning purposes.

Thank you for the opportunity to provide comments regarding the Stoneray Wind Project. Please contact me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jamie Schrenzel".

Jamie Schrenzel
Principal Planner
Environmental Review Unit
(651) 259-5115

Enclosures: 3

C: Tricia DeBleeckere, Minnesota Public Utilities Commission
David Birkholz, Minnesota Department of Commerce
Melissa Peterson, Stoneray Power Partners, LLC

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August 30, 2013

David Birkholz, Environmental Manager
Minnesota Department of Commerce,
Energy Facilities Permitting,
85 7th Place East, Suite 500
St. Paul MN 55101-2198

Re: Stoneray Power Partners, LLC Application for a Large Wind Energy Conversion System
Site Permit - (PUC) Docket Number: IP-6646/WS-13-216
DNR ERDB Number: 20120101-0006

Dear Mr. Birkholz:

The Minnesota Department of Natural Resources (DNR) has reviewed the Site Permit Application for the Stoneray Wind Project in Pipestone and Murray Counties. The following comments are provided regarding the Site Permit Application and for the development of the project record and draft permit. Also, this letter includes comments regarding the Generic Site Permit distributed as part of the Stoneray record.

Site Permit Application and Stoneray Draft Site Permit

The Site Permit Application states that no Wildlife Management Areas (WMAs) are located within the project boundary. Avoiding WMAs may reduce the risk of impacts to wildlife. The DNR wishes to confirm that no temporary or permanent impacts will occur to any publically owned areas including the Casey Jones State Trail or to public waters.

The Casey Jones State Trail crosses the project area. The DNR recommends that no direct impacts occur to the trail. The DNR recommends that turbines not be placed within a 5 x 3 rotor diameter distance from the trail and that access roads avoid bisecting it to reduce recreational impacts and increase safety for trail users. In addition, the DNR plans to extend the trail east of where it currently ends in Murray County to connect to the Lake Wilson segment. The new trail segment would be within the Stoneray project area.

Project developers crossing (over, under, or across) any state land or public water with any utility (power lines, including feeder lines) need to secure a DNR License to Cross Public Lands and Waters (Minnesota Statutes, section 84.415). Information on obtaining a Utility License can be found at: http://www.dnr.state.mn.us/permits/utility_crossing/index.html.

For detailed information on where the Public Waters are located in a project area, visit the following site and click on the Public Waters Inventory (PWI) Maps Download button: http://www.dnr.state.mn.us/waters/watermgmt_section/pwi/maps.html.



The Site Permit Application discusses the presence of Minnesota Biological Survey Sites of Biodiversity Significance, remnant native prairie, and a calcareous fen. The DNR recommends avoiding any infrastructure impacts to these important habitats and encourages inclusion in the draft permit of a requirement for a native prairie protection and management plan if any native prairie were to be impacted. Any impacts, including hydrologic impacts, to a calcareous fen would require a Fen Management Plan from the DNR. If there is a possibility of impacting a calcareous fen, the project developer should contact Doug Norris at (651) 259- 5125.

The project developer should contact the DNR Natural Heritage Information System (NHIS) coordinator Lisa Joyal at (651) 259-5109 regarding either an updated NHIS request or a concurrence letter regarding the project developer's review of NHIS data. Note that this is particularly important due to recent updates to the State of Minnesota Endangered and Threatened Species List. The DNR may have additional comments regarding rare species or native plant communities once this review step is completed.

Page 39 of the Site Permit Application discussed acoustic bat monitoring, but did not include bat passes per detector night. Furthermore, Appendix C-5, Acoustic Bat Survey, stated: "Bat passes per night (bpn) was determined by the total number of recorded passes divided by the total number of nights of the survey." Bpn throughout the entire study (April 9 - October 31) averaged 23.8 bpn." In order to compare the results to other projects the standard is to determine the bat passes per detector night.

The DNR has developed a Blanding's turtle priority map (attached) that includes potential habitat for the state-listed threatened species. The DNR recommends that the PUC Site Permit include a condition that only allows construction from November 1 to April 30 within the priority areas in order to avoid potential impacts to Blanding's turtles or their nests. The Blanding's turtle construction avoidance flyer and poster are also attached as informational items for contractors.

Based on the turbine layout submitted and available information at this time, the DNR concurs with the Site Permit Application estimate of low fatality risk to birds and bats for the Stoneray Project.

Generic Permit

Section 6.1 states: "The Permittee shall file with the Commission, any biological surveys or studies conducted on this Project, including those not required under this permit." Generally, for various projects, the DNR agrees with this condition for post-construction monitoring, informal monitoring, or company specific surveys/monitoring conducted at any time. However, the DNR recommends that pre-construction (United States Fish and Wildlife Service Tier 3) survey results be submitted with the Site Permit Application if already completed, or at least prior to permit issuance.

Section 6.7 discusses the requirements of the Avian and Bat Protection Plan. Generally, the DNR also recommends that a Draft Avian and Bat Protection Plan should be submitted with the Site Permit Application.

Section 6.7.3(b) states: "one or more dead or injured migratory avian or bat species." This notification requirement would likely be over burdensome on both a permittee and the DNR. Many species that collide with turbines are migratory and notification would be occurring quite often from projects across the state. Other reporting frequency/methods could capture trends in fatalities in a more efficient manner. Please consider the following language: "five or more dead or injured migratory avian or bat species found within one calendar week." Also, considering federal regulations regarding migratory birds, coordination with the USFWS regarding this language is also encouraged.

Thank you for the opportunity to provide comments. Please contact me with any questions.

Sincerely,



Jamie Schrenzel
Principal Planner
Environmental Review Unit
(651) 259-5115

Enclosures: 3

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December 18, 2013

ADMINISTRATIVE
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Ms. Jamie Schrenzel
Minnesota Department of Natural Resources
Division of Ecological and Water Resources
500 Lafayette Road
St. Paul, Minnesota 55155

Re: Responses to Comments from the MDNR for the Bird and Bat Conservation Strategy for the
EDF Renewable Energy Stoneray Wind Project
Burns & McDonnell Project No. 62823

Dear Ms. Schrenzel:

Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) is providing environmental support services for the EDF Renewable Energy (EDF) proposed 105-megawatt (MW) wind energy facility, the Stoneray Wind Project (Project), to be located in Pipestone and Murray counties in southwestern Minnesota.

For the purpose of continuing coordination with the Minnesota Department of Natural Resources (MDNR) regarding the Project, we are providing responses to the comments (dated December 4, 2013) provided by the MDNR for the Project Bird and Bat Conservation Strategy (BBCS). Each comment provided by the MDNR is included in the order which they were itemized by the MDNR. The response is provided immediately below the comment. Several responses include reference to edited language in the BBCS. A revised version of the BBCS is included in the Enclosures.

MDNR Comments and Project Responses

MDNR Comment:

Page 2-12: States, "Species-specific seasonal construction or BMP requirements will be implemented in coordination with the DNR." This is in regard to Blanding's turtles. The DNR has previously recommended that turbines be constructed within potential Blanding's turtle habitat/nesting areas from November 1 – April 30. Though it is understandable that turtles may not be discussed in a Bird and Bat Conservation Strategy, rare species BMPs for species other than birds and bats should be included in an appropriate portion of the record reviewed prior to issuance of a site permit.

Response:

The language for this section has been edited to reflect the DNR comment above. Additionally, this information was included in the Site Permit Application for a Large Wind Energy Conversion System (LWECS), PUC Docket No. IP-6646/WS-13-216.



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MDNR Comment:

Page 3-7: States, "Additionally, the presence of many existing wind generation facilities nearby and within the Project site in a variety of locations indicates that the bird(s) currently present are adapted or not being disturbed." No information has been presented to support this statement. This should not be included in the document. Also, there are known bird fatalities from nearby existing turbines, which would indicate adverse effects, at least to individuals.

Response:

This language has been removed from the document.

MDNR Comment:

Page 3-9: Discusses bat passes per night. A correction letter was sent by the Project developer regarding this information dated November 25, 2013. Information from the correction letter should be added to the BBCS to address what could be otherwise confusing results.

Response:

The language has been edited in the document to reflect this DNR comment and coincide with the correction letter dated November 25, 2013.

MDNR Comment:

Table 2-2: This table seems incomplete and outdated. The species list is not consistent with the text through the document. The northern grasshopper mouse is state-listed as special concern and the plains topminnow is state-listed as threatened.

Response:

The table and language in the document have been updated.

MDNR Comment:

Section 2.2.3.1: The document states that there are four kinds of rare native plant communities within the Project site. Will these communities be avoided? A map showing these communities along with the turbine locations, access roads, and other areas of disturbance would be helpful.

Response:

These areas will be avoided by the Project. The language in the report has been edited to reflect avoidance of these areas. Figures 5 and 6 in Appendix A have been added depicting these areas.



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MDNR Comment:

Section 2.2.3.3: It is stated that the Project developers have consulted with the DNR regarding state protected species. However, there is no apparent record of consultation with the Endangered Species Review Coordinator.

Response:

Appendix B – MDNR Project Correspondence and the license agreement has been added as well as referenced in the document.

MDNR Comment:

Section 2.2.3.4: This section is incorrect. There are seven species of bats known to occur throughout Minnesota. Four of these bats are state-listed as special concern. State-listed species are listed statewide; there are no exclusions for certain counties.

Response:

The language has been edited to reflect the comment above.

MDNR Comment:

Section 2.2.4: The document states that species are reported via MDNR data. Is this referring to the Rare Features Data? If so, the document should list the License Agreement number and the date of the data. No Natural Heritage Review or Natural Heritage Concurrence has been completed for this Project.

Response:

The language has been edited to reflect the MDNR consultations.

MDNR Comment:

Section 3.1.1.2: The greater prairie-chicken is a state-listed species of special concern. It is listed statewide; there are no exclusions for certain counties.

Response:

The language has been edited to reflect the comment above.

MDNR Comment:

Section 3.1.1.3: There are four bats state-listed as special concern. State-listed species are listed statewide; there are no exclusions for certain counties. This section should discuss all four species rather than focusing on only one species.

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Response:

The language has been edited to reflect the comment above.

MDNR Comment:

Section 3.1.1.4: This section discusses a habitat assessment for rare species. Will potential habitat be avoided? Providing a map that shows potential habitat along with turbine locations, access roads, and other areas of disturbance would be helpful for this section.

Response:

The Project will not impact these areas. Figures 5 and 6 in Appendix A have been added to the document to illustrate these areas.

Language in the last paragraph in this section states, "Given Project siting to avoid these areas and the relatively small areas that contain suitable habitat, the Project as currently proposed would provide a low risk for adverse effects to these species."

MDNR Comment:

Section 3.1.2: "Question III-1: Do field studies indicate that species of concern are present on or likely to use the proposed site?" This section as well as Answer III-4 and III-5, pages 3-15, should reflect the updated state listing of special concern bats in Minnesota. The fatality of a special concern bat would be an adverse effect.

Response:

The language has been edited to incorporate the DNR comment above as well as field studies and analyses completed for the Project.

MDNR Comment:

Section 3.1.2: There are state-listed species likely to be present and that will likely be adversely impacted. Specifically, the four state-listed bats and other state-listed species included in this document should be discussed. Blanding's turtles should also be addressed in the Project record.

Response:

The language has been edited in this section and associated language throughout the document to reflect this DNR comment and similar comments.

The Project developer has and will continue to employ all means practicable to avoid adverse impacts to protected species. Based on the studies completed, consultations, and Project siting, the Project developer does not believe that Project will result in adverse impacts to protected species.

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MDNR Comment:

Section 4.1.1: Second bullet: Low risk fatality survey methods as described in the most recent draft of wildlife survey protocol should be used for this site. The DNR can provide the most recent draft of the survey protocol.

Response:

The language included reflects this wildlife survey protocol as follows: Recent consultation with the MDNR has indicated the Project area will be a low risk site.

Voluntary avian and bat species fatality surveys will be completed following the protocol developed by the MDNR for low risk sites (MDNR 2012). This includes one field season of post-construction fatality monitoring in addition to the other parameters outlined in “Fatality Monitoring for Low Risk Sites” in the MDNR protocol (2012). These include:

- 1) Minimum of 1 year of searches
- 2) Minimum of one search day per week with a minimum of 3 days of separation between searches
- 3) Minimum number of turbines searched is 10
- 4) Search area of 80 m (160 m per rectangular side) in all cardinal directions from the base of the turbine
- 5) Search time periods covering the peak fatality periods of March 15-June 15 and August 1-October 15
- 6) Searcher efficiency trials using a minimum of 75 placed carcasses
- 7) Scavenger removal trials using a minimum of 50

MDNR Comment:

Section 4.2.1: States, “The Project is not located in a key migratory corridor for birds and bats.” This should be removed from the BBCS because bat migratory corridors are not known in Minnesota.

Response:

The language has been edited to reflect this DNR comment.

MDNR Comment:

Section 4.3.2: Vegetation Clearing and Management states: “Disturbed native prairie habitat will undergo restoration in order to reclaim in.” Are there known impacts proposed to native prairie? If so, these should be described in the Project record in detail. If native prairie is proposed to be impacted, then rare species surveys may be required, a Natural Heritage Review is needed, and a



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Prairie Restoration and Management Plan should be completed. Any impact to native prairie other than MBS Native Plant Communities should be clearly identified.

Response:

The Project will not impact native prairie. The language has been edited to reflect this siting consideration.

Conclusions

The Project team believes these responses, changes to the document, and addition of figures fulfill the requests described in the MDNR comments. Additionally, based on the studies completed, consultations, and Project siting, we do not believe that Project will result in adverse impacts to protected species.

If you have any questions regarding the responses, please let us know as soon possible. Please contact Bryan Gasper (Biologist) at (816) 349-6770 or bgasper@burnsmcd.com or Justin Bailey (Project Manager) at (816) 822-4311 or jbailey@burnsmcd.com at your convenience. However, for other components of the Project to remain on schedule, we request a response from your office as soon as possible. Additional comments will be addressed as received from other agencies, as applicable.

Sincerely,

A handwritten signature in black ink that reads "Bryan R. Gasper". The signature is written in a cursive style.

Bryan R. Gasper
Senior Environmental Scientist/Wildlife Biologist
Burns & McDonnell Engineering Company, Inc.
9400 Ward Parkway
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cc: Melissa Peterson, EDF Renewable Energy
Justin Bailey, Burns & McDonnell
Andy Kim, EVS
Files

Enclosures

Fatality Monitoring For Low Risk Sites

Monitoring protocols for low-risk sites are designed to collect information on fatalities for project areas that lack any indication that fatalities could be significant. Monitoring of low-risk sites is considered baseline data collection to determine if avian or bat fatalities are greater than anticipated. Additional monitoring may be recommended if fatalities are high or if state-listed species are killed. Data collected using low-risk protocols should not be used to draw strong conclusions concerning fatalities at the site.

Summary of Low-Risk Protocol

- 1) Minimum of 1 search day per week with a minimum of 3 days of separation between searches.
- 2) Minimum of 1 field season of monitoring. If high fatalities are occurring a second year of monitoring may be recommended.
- 3) Monitoring is conducted from March 15-November 15.
- 4) Minimum number of turbines searched is 10.
- 5) Search area of 80 m (160 m per rectangular side) in all cardinal directions from the base of the turbine.
- 6) Searcher efficiency trials use a minimum of 75 placed carcasses.
- 7) Scavenger removal trials use a minimum of 50.
- 8) Search time minimum of 1-2 hours.
- 9) Minimum of 2 fatality estimators used.

Road and Pad Protocol

The agencies will consider the use of road and pad protocols under some circumstances. Projects with greater than 45 turbines and very dense vegetation may warrant the use of road and pad searches. For additional information on this technique see Bat Monitoring Studies at the Fowler Ridge Wind Farm (Good et. al. 2012).

Summary of Road and Pad Protocols

- 1) Minimum of 5 full plot searches, as described above, are necessary. Plots are cleared of vegetation.
- 2) Minimum of 40 road and pad search areas.
- 3) High Risk is 4 search days per week, Moderate 2, and Low-Risk 1.
- 4) High Risk monitoring is conducted for a minimum of 2 field seasons, Moderate and Low Risk sites one field season with potential for a second season if high fatalities are occurring.

- 5) Field season is March 15 to November 15.
- 6) Search area of 80 m (160 m per rectangular side) in all cardinal directions from the base of the turbine for full search plots, and 80 m from the turbine base for the road and pad component.
- 7) Searcher efficiency trials use a minimum of 100 carcasses placed.
- 8) Scavenger removal trials use a minimum of 50 carcasses placed.
- 9) Searcher and scavenger removal trials are conducted in a manner to differentiate between full search plots and road and pads.
- 10) Minimum of 2 agreed upon fatality estimators used.