



Shaping the future for birds

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

February 12, 2015

Dear Secretary Jewell:

American Bird Conservancy (ABC) is respectfully submitting this updated Petition for Rulemaking on “Regulating the Impact of Wind Energy Development on Migratory Birds”, including new information that is directly-relevant to our original request. More specifically, we have added examples of new science and prototype regulatory mechanisms that add further credence and justification for our original proposal to advance the protection of migratory birds under the Migratory Bird Treaty Act.

In the Services’ March 22, 2013 letter responding to our original request, it was noted that the Service would “compile information from wind industry facilities that are implementing” the voluntary Wind Energy Guidelines, and that this would provide “...data in order to better assess the potential impact of wind energy facilities on migratory bird populations.” It also states that the Service hopes “that ABC will continue to provide its valuable input into these efforts.” This updated petition is intended to continue that process.

In preparing the petition, ABC was assisted by Meyer Glitzenstein & Crystal, a Washington D.C.-based public interest law firm specializing in environmental and wildlife laws. In this Petition, ABC urges FWS to promulgate regulations establishing a mandatory permitting system for siting, constructing, and operating wind energy projects and mitigating of their impacts on migratory birds.

The Petition first sets forth the factual basis establishing the need for such a system, i.e., the rapid proliferation of wind energy projects and the significant adverse effects this development is having and will increasingly have on migratory birds, particularly those of conservation concern. Then the Petition describes the legal framework under which FWS has more than sufficient authority to promulgate MBTA regulations specifically aimed at encouraging the development of wind power in a manner that ameliorates, to the extent practicable, the adverse effects on migratory birds. Further, the Petition examines in detail the several benefits of the proposed permitting system. Finally, ABC offers specific regulatory language that would accomplish the objectives identified in this Petition.

The Fish and Wildlife Service’s principal reason for rejecting the original petition was that the Wind Energy Guidelines had just been issued and the Service wanted to see how they would work. We now have had sufficient experience to know that they are not adequate to address the growing problem of bird and bat mortality.



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Thank you for your consideration. We hope to hear from you soon.
Sincerely,

A handwritten signature in black ink, which appears to read "Michael Hutchins".

Michael Hutchins, Ph.D.
National Coordinator, Bird Smart Wind Energy Campaign

Cc: D. Ashe