



Shaping the future for birds

May 4, 2012

The Honorable Jeff Bingaman
Chairman
Committee on Energy and Natural Resources
Senate Dirksen 304
Washington, D.C. 20510

The Honorable Lisa Murkowski
Ranking Member
Committee on Energy and Natural Resources
Senate Dirksen 304
Washington, D.C. 20510

Dear Chairman Bingaman and Ranking Member Murkowski,

On behalf of our 61 groups, we respectfully request that the Senate Committee on Energy and Natural Resources exercise its oversight authority to ensure that the recently released U.S. Fish and Wildlife Service (FWS) Land-Based Wind Energy Guidelines (Guidelines) are actively measured for their effectiveness in reducing avoidable bird and bat mortality at wind generation facilities. Our organizations stand opposed to these voluntary guidelines because over the last eight years, previous iterations have proven to be ineffective in protecting birds from the negative impacts of unregulated wind development, further imperilling a precious natural resource cherished by millions of Americans. In addition, we request that the committee closely monitor FWS' referrals to law enforcement and the Department of Justice's response to those referrals to ensure preferable treatment isn't given one method of energy production over others.

Migratory birds are not only beautiful and fascinating creatures, eagerly welcomed by millions of Americans into their backyards every year, they also help generate billions of dollars annually to the U.S. economy through wildlife watching activities, and are essential to our farming and forestry industries in their roles of pollinators and controllers of harmful insect pests on many important commercial crops. We need to conserve this resource for future generations by ensuring responsible energy development. Making wind power bird-friendly is not only imperative to protect our nation's natural heritage, it is also not unreasonably expensive or difficult, and does not impose an unreasonable burden on wind energy producers.

In addition to the well-known risk of death through collision with wind turbine blades, birds face another risk from wind energy development, displacement from important habitat. In the Prairie Pothole Region of the United States, sometimes called "America's duck factory," a study conducted jointly by FWS and Ducks Unlimited demonstrated a 10% to 40% reduction in the density of breeding ducks in wetlands near wind turbines compared to wetlands without wind turbines.¹ This region supports more than 50% of the North American breeding waterfowl population and because it contains some of the best wind energy potential in the country, is expected to undergo heavy wind energy development. In addition, some grassland bird species have been demonstrated to avoid areas with wind turbines, leading to reduced densities of birds in locations of highest quality habitat, with potentially adverse long-term impacts. Preliminary research by the U.S. Geological Survey has

¹ Chuck Loesch, et al. 2011. "Fact Sheet: Assessment of the Effects of Wind Energy Development on Breeding Ducks in the Prairie Pothole Region of North and South Dakota Wetlands." See attachment.

demonstrated that displacement occurs with Grasshopper Sparrows and Clay-colored Sparrows, which are both designated as Birds of Conservation Concern by FWS.² Density of these birds decreased near wind turbines at study sites in Minnesota, North Dakota, and South Dakota.³ In studies by private environmental consultants, grassland birds have also been found to avoid important habitats near wind turbines and roads at other locations in Minnesota, Oregon, and Washington.⁴ Moreover, some bird species will abandon important habitat when tall structures are added. For example, Greater Sage-Grouse, a candidate for listing under the Endangered Species Act, abandoned key habitat at the Cotterel Mountain wind project in Idaho after meteorological towers for wind testing were installed.⁵

To increase taxpayer confidence that wind energy will not continue to negatively impact cherished natural resources, such as the over 300 federally-protected migratory songbirds covered under the Migratory Bird Treaty Act and our nation's symbol, the Bald Eagle covered under the Bald and Golden Eagle Protection Act, we strongly believe the Department of Interior's implementation of the voluntary Wind Guidelines must be fully transparent. Further, to make the Department of Interior accountable for the efficacy of the Guidelines, we believe the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources should compel the FWS to summarize and share, in an annual report, the data FWS announced it plans to collect from the wind energy industry.⁶ These data will show how well the Guidelines are facilitating wind energy development while protecting America's native wildlife.

The Fish and Wildlife Service estimated in 2009 that 440,000 birds were being killed annually by existing wind turbines⁷. This estimate was recently used by the Department of Interior in their 2013 budget request to Congress⁸. As of October, 2011, three Bald Eagles and 54 Golden Eagles had been

² FWS-designated Birds of Conservation Concern are those the agency believes are the highest priority for conservation action. The 1988 amendment to the Fish and Wildlife Conservation Act (FWCA) of 1980 (Pub.L. 100-653, Title VIII) requires the Secretary of the Interior, through the U.S. Fish and Wildlife Service, to "identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act [ESA] of 1973." FWS. March 16, 2009. "Availability of Birds of Conservation Concern 2008." Federal Register. See page 11128 at <http://www.gpo.gov/fdsys/pkg/FR-2009-03-16/pdf/E9-5548.pdf>.

³ Jill A. Shaffer & Douglas H. Johnson. 2010. Displacement Effects of Wind Developments on Grassland Birds in the Northern Great Plains See page 51 at https://www.nationalwind.org/assets/research_meetings/Research_Meeting_VII_Shaffer.pdf.

⁴ Wallace Erickson et al. 2007. "Protocol for Investigating Displacement Effects of Wind Facilities on Grassland Songbirds." USGS Northern Prairie Wildlife Research Center: Paper 131. Available at <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1116&context=usgsnpwrc>.

⁵ Biodiversity Conservation Alliance, et al. 2008. Wind Power in Wyoming: Doing It Smart from the Start. See page 21 at <http://www.voiceforthewild.org/WindPowerReport.pdf>.

⁶ See FWS. April 2, 2012. "Proposed Information Collection: Land-Based Wind Energy Guidelines." Federal Register. Page 19683 at <http://www.gpo.gov/fdsys/pkg/FR-2012-04-02/pdf/2012-7840.pdf>.

⁷ Albert M. Manville II. 2009. *Towers, Turbines, Power Lines, And Buildings—Steps Being Taken by the U.S. Fish And Wildlife Service to Avoid or Minimize Take of Migratory Birds at These Structures*. Proceedings of the Fourth International Partners in Flight Conference. See page 268 at http://www.partnersinflight.org/pubs/mcallenproc/articles/pif09_anthropogenic%20impacts/manville_pif09.pdf.

⁸ United States Department of the Interior Budget Justifications and Performance Information for Fiscal Year 2013. See page LE-2 at <http://www.fws.gov/budget/2013/FY%202013%20FWS%20Greenbook%20Final.pdf>.

killed at U.S. wind energy facilities in addition to the thousands of Golden Eagles estimated to have been killed in the Altamont Pass Wind Resource Area of California.⁹ Unfortunately, this illegal and largely avoidable take of federally protected birds has yet to draw a prosecution from the Department of Justice, which has sought comparable charges against oil and gas producers for similarly egregious violations. We urge you to closely monitor FWS' referrals to law enforcement and the Department of Justice's response to those referrals to ensure preferable treatment isn't given one method of energy production over others.

We believe wind energy has the potential to be a good source of renewable energy, when built and operated in ways that avoid, minimize and mitigate harm to wildlife. Requiring the FWS to report annually on implementation of the voluntary Wind Energy Guidelines would provide a valuable opportunity to increase public confidence in the wind industry. In addition, supporting enforcement of the law so that the incentive to follow the Guidelines remains effective would also help ensure public confidence.

Thank you in advance for your prompt attention to this request.

Sincerely,

American Bird Conservancy, Darin Schroeder, Vice President

Audubon Society of New Hampshire. Concord, NH. Michael J. Bartlett, President.

Bark. Portland, OR. Alex P. Brown, Executive Director.

Bartramian Audubon Society. Slippery Rock, PA. Gene Wilhelm, Ph.D., Sanctuary Chair.

Biodiversity Conservation Alliance. Laramie, WY. Erik Molvar, Executive Director.

Bird Conservation Network. Evanston, IL. Donnie Dann, Past President and Advocacy Chair.

Black Swamp Bird Observatory. Oak Harbor, OH. Kim Kaufman, Executive Director.

Chautauqua Citizens for Responsible Wind Power. Westfield, NY. Gil Randell.

Chesapeake Audubon Society. Baltimore, MD. Ruth Bergstrom, President.

Chesapeake Wildlife Heritage. Easton, MD. Ned Gerber, Director.

Claybrook Mountain Lodge. Highland Plantation, ME. Gregory and Patrice Drummond, Owners.

Clearwater Audubon Society. Clearwater, FL. Barb Walker, Conservation Advocacy.

Coal Point Trading Company. Homer Spit, AK. Bernadine Jagelski.

Common Coast Research and Conservation. Hancock, MI. Joe Kaplan, Director.

⁹ The estimate of eagles killed outside Altamont Pass was included in a FWS presentation at a bird conservation law conference held at the Lewis and Clark School of Law in October, 2011.

Conservation Committee of the Virginia Society of Ornithology. Richmond, VA. Patti Reum, Conservation Committee Chair.

Conservation Congress. Livingston, MT. Denise Boggs, Executive Director.

Coastal Bend Audubon Society. Corpus Christi, TX. David Newstead, President.

Delaware-Otsego Audubon Society. Jefferson, NY. Andrew Mason, Co-President.

Delmarva Ornithological Society. Greenville, DE. Bill Stewart, Conservation Chair.

Detroit Audubon Society. Detroit, MI. Fred Charbonneau, Safe Passage Great Lakes Coordinator

East Cascades Audubon Society. Bend, OR. Sheryl Pierce, President.

Endangered Habitats League. Los Angeles, CA. Dan Silver, Executive Director.

Freeport Wild Bird Supply. Freeport, ME. Jeannette and Derek Lovitch, Owners.

Environmental Protection Information Center. Arcata, CA. Andrew Orahoske, Conservation Director.

Forest Issues Group. Nevada City, CA. Don Rivenes, Executive Director.

Friends of the Boundary Mountains. Vienna, ME. Bob Weingarten, President.

Golden Eagle Audubon Society. Boise, ID. Pam Conley, President.

Greater Wyoming Valley Audubon Society. Dallas, PA. Robert Wasilewski, President.

Hawk Migration Association of North America. Plymouth, NH. Will Weber, Ph.D., Chair.

Kettle Range Conservation Group. Republic, WA. Timothy J. Coleman, Executive Director.

Klamath Forest Alliance. Orleans, CA. Kimberly Baker, Forest and Wildlife Advocate.

Klamath-Siskiyou Wildlands Center. Ashland, OR. Stephanie Tidwell, Executive Director.

Lane County Audubon Society. Eugene, OR. Debbie Schlenoff, President.

The Lands Council. Spokane, WA. Mike Petersen, Executive Director.

Maryland Ornithological Society. Baltimore, MD. Kurt Schwarz, Conservation Committee Chair.

National Wildlife Rehabilitators Association. St. Cloud, MN. Sandy Woltman, President.

Olympic Forest Coalition. Quilcene, WA. Connie Gallant, Vice President.

Palouse Audubon Society. Pullman, WA. Thomas L. Weber, President.

Pioneer Alaskan Fisheries, Inc. Homer Spit, AK. Nancy Hillstrand, Owner.

Ripley Hawk Watch. Ripley, NY. Gil Randell, Coordinator.

Rocky Mountain Wild. Denver, CO. Rocky Smith, ForestWatch Program Director.

Rogue Valley Audubon Society. Medford, OR. Alex Maksymowicz, President.

Sacramento Audubon Society. Sacramento, CA. Don Schmoldt, President.

Sangre de Cristo Audubon Society. Santa Fe, NM. Tom Jervis, President.

Saving Birds Thru Habitat. Omena, MI. Kay Charter, Executive Director.

Society for the Conservation and Study of Caribbean Birds. Boston, MA. Lisa G. Sorenson, Ph.D., President.

South Florida Audubon Society. Fort Lauderdale, FL. Grant Campbell, Wildlife Policy Director, Conservation Chair.

Southern Adirondack Audubon Society. Queensbury, NY. Pat Fitzgerald, President.

St. Louis Audubon Society. St. Louis, MO. Mitch Leachman, Executive Director.

Tennessee Ornithological Society. Munford, TN. Dick Preston, President.

Tortoise Reserve, Inc. White Lake, NC. D. S. Lee, Executive Director.

The Trumpeter Swan Society. Littleton, CO. John E. Cornely, Ph.D., Executive Director.

The Urban Wildlands Group. Los Angeles, CA. Catherine Rich, Executive Officer.

Utah Environmental Congress. Salt Lake City, UT. Kevin Mueller, Executive Director.

Virginia Society of Ornithology. Richmond, VA. Andrew Dolby, President.

Western Nebraska Resources Council. Chadron, NE. Buffalo Bruce, Ecologist.

West Pasco Audubon Society. New Port Richey, FL. Peter Day, President.

Wildlife Center of Virginia, Edward Clark, President

Wildlife Information Center. Slatington, PA. Dan Kunkle, Executive Director.

Wildlife Policy Consulting. Olympia, WA. Ruth Musgrave, President.

Wyoming Outdoor Council. Laramie, WY. Sophie Osborn, Wildlife Program Director.

Yosemite Area Audubon Society. Mariposa, CA. Lowell Young, President.