AMERICAN BIRD CONSERVANCY

Bringing back the birds

Hon. Kathleen H. Burgess, Secretary
Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

September 13, 2016

Re: Case # 12-F-0575

Dear Secretary Burgess:

The American Bird Conservancy (ABC) is writing to express its serious concerns about Avangrid Renewables/Iberdrola's proposed Horse Creek Wind Energy Project (WEP) slated to be built in Jefferson County, New York. This large, commercial wind energy facility, located near the town of Clayton, is to be comprised of some 40 585-foot tall turbines. At the western end of the St. Lawrence River as it runs into Lake Ontario, the project is to be located along a major migratory route for vast numbers of birds and home to cave dwelling bats, including the federally endangered Indiana bat. The unique Alvar ecology of this area and the many species it supports make this a particularly poor site for wind energy or other types of large-scale commercial development.

ABC is a 501(c) (3) not-for-profit membership organization whose mission is to conserve native birds and their habitats throughout the Americas (www.abcbirds.org). ABC acts by safeguarding the rarest species, conserving and restoring habitats, and reducing threats, while building capacity in the bird conservation movement.

ABC supports the development of clean, renewable sources of energy such as wind power, but also believes that it must be done responsibly and with minimal impact on our public trust resources, including native species of birds and bats, and particularly threatened, endangered and other protected species.

ABC is a proponent of Bird Smart Wind Energy, which is described in some detail in Hutchins et al (2016). In the case of wind energy, careful wind generation siting is crucial in preventing the unintended impacts to America's native bird and bat species and other wildlife and their habitats, and ABC is concerned that the proposed site for this project poses an unacceptably high potential risk to protected wildlife. This risk can be substantial, depending on the circumstances. Millions of birds are

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lost annually through collisions with wind turbines and their associated infrastructure, notably power lines and towers (includes electrocutions) (Erickson et al. 2015, Smallwood, 2013, Loss et al. 2013, Loss et al. 2015). Some grassland birds are also displaced and/or have reduced reproductive success when tall structures, such as wind turbines and power lines and towers, are placed in their habitats (e.g., Shaffer and Buhl 2015, Stevens et al. 2013). Declining grassland species, such as Bobolink, Grasshopper Sparrow, Eastern Meadowlark, Horned Lark, all breed within the footprint of this proposed project.

The wind energy industry publically claims to be concerned about bird and bat mortality, but continues to try to build large, commercial wind energy facilities in major migratory corridors and sensitive breeding areas for birds and bats in the United States (Casey 2015), thus placing our nation's ecologically important wildlife at great risk. The proposed site of the Horse Creek Wind Energy Project seems to be one such area. The site would be located in the middle of the East Great Lakes Raptor Migratory Corridor, which hosts vast numbers of Sharp-shined Hawks, American Kestrels and Broad-winged Hawks.

Clayton, NY and its environs are also part of the Atlantic Coastal Migratory Corridor, which New York's *Draft Open Space Conservation Plan* has recognized as a vital area for avian wildlife, calling it a "major New York State resource consisting of islands, sand dunes, bluffs, embayment's, wetlands, major tributaries, lake plains, significant bat and avian migratory flyways, opportunities for shoreline and island access and other significant natural and cultural resources." It goes on to say, "This system begins at the St. Lawrence River in Jefferson County. The lake plain and escarpment, especially when they are located relatively close to the lake, define important avian and bat migratory flyways, providing crucial nesting and feeding areas during migratory periods and critical airspace for migrating birds and bats. They also provide important and unique nesting and wintering habitats for critical avian species, including the American Bald Eagle, Short-eared Owl, Northern Harrier and other species of conservation concern" (p. 147). The state cannot have it both ways. Putting a large, commercial wind facility in this sensitive habitat would be a disaster for our nation's birds and bats, and is likely to result in many deaths, including the deaths of many federally and state protected species.

Species present in this area include the endangered Indiana bat, and many species protected by the Migratory Bird Treaty Act, including Short-eared owl (Endangered in New York), Olive-sided Flycatcher, Golden-winged Warbler, Evening Grosbeak, Eastern Whip-Poor-Will, Red-headed Woodpecker, Black-billed Cuckoo, Wood Thrush, Cerulean Warbler, Prairie Warbler and Yellow-billed Cuckoo, all species of conservation concern, that breed or move through this area during their Fall and Spring migrations.

The ecological services—pest control, pollination, and seed dispersal--that birds and bats provide are worth billions to the U.S. and Canadian economies (Sekercioglu, 2015, Sekercioglu et al. 2016). Bird watching also brings millions of dollars through travel and recreational equipment purchases (Kaufman 2016). Yet, many of North America's bird species are in precipitous decline, with over a third in need of concerted conservation action to ensure their future (North American Bird Conservation Initiative 2016).

Industry consultants frequently claim that large, commercial wind projects pose little threat to migratory birds as they fly far above the rotor swept areas of the turbines. However, recent radar studies conducted by the U.S. Fish and Wildlife Service (FWS) on Lake Michigan, Lake Erie and Lake Ontario show this to be patently false. Bowden et al. (2015), Horton et al (2016) and Rathbun et al. (2016) both found vast numbers of birds and bats moving along the shorelines and over the lakes, and furthermore, that they frequently flew within the rotor swept area of wind turbines, thus placing them at great risk of collision. Moreover, while the FWS currently recommends that no wind turbines be built within three miles of the Great Lakes shorelines (Nature Conservancy recommends five miles), these recent radar studies suggest that setbacks should be extended to 5-10 miles (Miner 2016). Furthermore, these studies essentially invalidate the findings of paid consultants who typically base their conclusions on limited daytime visual observations, while the vast majority of songbird and bat migration occurs at night.

These new FWS studies confirm what ABC and others have been saying all along, that the Great Lakes and their environs are not a good place to be building large, commercial wind energy facilities from the perspective of wildlife conservation (ABC 2016a). Building in this area--one of the world's greatest confluences of migratory birds and bats--could result in large numbers of migratory bird and bat deaths and potentially be in violation of the Migratory Bird Treaty Act, the Endangered Species Act and Bald and Golden Eagle Protection Act. Developing wind energy in these highly bird-sensitive areas also makes it increasingly difficult for the millions of birdwatchers in this country to support wind energy in general. In short, building a large, commercial wind facility along the St. Lawrence River near Lake Ontario could be a legal and public relations nightmare for the state's elected officials, all of whom have an obligation to protect our nation's public trust resources.

Wind energy developers are supposed to assess the risks associated with their development to sensitive wildlife, especially birds and bats. However, there is a problem with such studies being conducted by paid consultants to industry. Hiring paid consultants to collect this data preordains the result and is a clear violation of scientific integrity practices:

"Scientists with conflicts of interest are viewed as being at least partially integrity-compromised, and, even with complete and open disclosure, are regarded, at least to an extent, as of suspect scientific credibility" (Rowe and Alexander 2012).

It is therefore not surprising that independent researchers have found a very poor correlation between pre-construction risk studies at wind energy facilities and actual number and type of birds killed post-construction (Ferrer et al, 2011). We note that paid consultants would not be in business very long if their findings and testimony did not support the goals of their employers. This conflict of interest calls into question the validity of any studies they conduct.

Transparency of bird and bat kill data has been a continuing and serious problem with wind energy development in the United States (Clarke 2014, Associated Press 2015, ABC 2016b, Jackson 2016). If this project is eventually built despite local and national opposition, then all post-construction bird and bat fatality data should be collected by independent, third party experts using standardized methods and reported directly to state and federal regulatory agencies, as is now done only in the state of Hawaii (Hutchins 2016). These data should also be made available to the public and concerned conservation organizations. These are public trust resources being taken and the public has a right to know. A plan for compensating the public for any loss of federally protected species should be worked out before any construction takes place, and should include setting aside or rehabilitating additional lands outside the project area for bird and bat conservation purposes. If and when data show that large numbers of birds and bats are taken by the project when it begins operation, especially state- and federally protected species, then the option of total shut down and dismantlement of the turbines must be considered – and that should be made clear at the outset. The cost to wind energy developers must be significant enough to encourage them to stay out of sensitive areas for wildlife, something that they are not doing voluntarily (Casey 2014).

The developer will also claim that they know how to mitigate for bird kill at wind energy facilities, but the *only* proven mitigation methods to date are proper siting and curtailment (Arnett and May 2016). Curtailment of the wind turbines is not a popular solution for wind energy companies, as it cuts into their profit margins.

Lake Ontario and its environs have apparently been targeted by the wind industry for intensive wind energy development. Several other projects are planned in this ecologically sensitive area, including the proposed Galloo Island and Lighthouse Wind Energy Projects in New York and the existing poorly sited Wolfe Island and proposed Amherst Island Projects in Ontario. ABC is very concerned about the cumulative impacts of several large, commercial wind facilities in one of the world's greatest confluences of migratory birds and bats.

ABC is also concerned about the Horse Creek Project's impacts on the sensitive and unique Alvar ecosystem and its associated flora and fauna. This globally rare ecosystem is comprised of species that are able to survive on shallow soils over outcrops of calcareous bedrock, such as limestone or dolomite. The extreme and highly variable temperature and moisture regimes have resulted in unusual assemblages of plants. Part of this is an array of natural grasslands that provide breeding habitat for declining species of grassland birds, such as Bobolink, Grasshopper Sparrow, Eastern Meadowlark, and Horned Lark. The invertebrate fauna of this region has not been inventoried, but consists of rare ground beetles, sawflies and flightless leafhoppers. More than 20 species of ground snails thought to be new to science have also been found in this area, suggesting that this area's biodiversity is potentially unique and irreplaceable.

The fact that the wind industry wants to build in these highly sensitive wildlife areas is further evidence that they could care less about their growing cumulative influence on our Nation's and the state of New York's irreplaceable wildlife and its habitats. Addressing climate change is important and renewable energy is one way to reach that goal. However, as climate change is not the most significant nor most immediate threat to wildlife, it is equally important that we conserve natural ecosystems (Maxwell et al. 2016). Thus, *how* and especially *where* we develop renewable energy becomes a key issue. We should not be placing large, commercial wind energy developments in key migratory routes, breeding habitat or in rare and unique ecosystems.

ABC believes that distributed solar energy in our already built environment is a much better alternative than poorly placed wind turbines built in sensitive wildlife habitat. Wind energy is not "green" if it is altering rare habitats and killing hundreds of thousands, if not millions, of our ecologically important native birds and bats annually. The wind industry has done a very good job of portraying itself as "green." However, nuances are important, and renewable energy is another form of potentially destructive development, especially when it is placed in sensitive wildlife habitat. It should be remembered that hydroelectric dams were considered the darling of the renewable energy movement in the 1950s and 60s, but are now being torn down due to their unexpected negative impacts on wildlife and their habitats (Yaggi 2016). Poorly placed, large, commercial wind facilities could suffer a similar fate, but only after they have taken an enormous toll on our Nation's irreplaceable wildlife and their habitats.

Thank you for your consideration.

Respectfully yours,

Michael Hutchins, Ph.D.
Director, Bird Smart Wind Energy Campaign

Cc. D. Ashe, J. Ford, B. Millsap, W. Weber

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