



PU... DE
EXEC... ANY
2016 JUL 15 AM 11:54

Bringing back the birds

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

July 8, 2016

Re: Case #14-F-0485

Dear Ms. Burgess:

The American Bird Conservancy (ABC) has written previously to express its serious concern about Apex Clean Energy's plans to build the Lighthouse Wind Energy Project (WEP) between the towns of Somerset, Niagara County and Yates, Orleans County, New York. Up to 71 570-foot tall turbines are planned for an area along the south shore of Lake Ontario, extending 4.5 miles from the Lake along a 12-mile stretch. This letter contains some important supplementary information that confirms that the risks to federally protected migratory birds from this project will be substantial. ABC believes that this is a cogent argument for cancelling the project and/or moving it elsewhere.

ABC is a 501(c) (3) science-based, 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.

As you may know, ABC identified the Lighthouse WEP as one of the 10 worst sited wind energy projects in the United States from the perspective of bird conservation. ABC has now become aware of a new radar study conducted by the U.S. Fish and Wildlife Service (Rathbun et al., 2016) that clearly demonstrates the substantial risks of building a large, commercial wind energy facility anywhere near the southern or eastern Lake Ontario shoreline.

If the Lighthouse WEP is approved by the state and built, there would be no way to avoid killing large numbers of federally protected migratory birds, including species of conservation concern. Avoidance of this scenario would only be possible if turbines were turned off during the entire spring and fall migration seasons, which is unlikely to be economically feasible. Proper siting (away from large concentrations of birds, such as migratory bottlenecks) and curtailment are currently the only proven methods for mitigating bird kill at wind energy facilities (Arnett and May 2016).

The study documented vast numbers of migratory birds and bats moving along the southern shore of Lake Ontario, and even more than 10 miles away from the lake. Additionally, this study was able to confirm that birds and bats frequently flew at altitudes that placed them within the rotor-swept area of wind turbines, thus placing them at substantial risk of collisions. The radar units on which the results are based were located in Niagara, Wayne and Jefferson Counties,



Shaping the future for birds

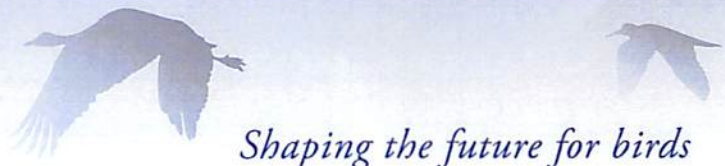
and the authors concluded that their results could be generalized to the entire eastern and southern shores of Lake Ontario.

The authors state: "Our data demonstrate that the shoreline areas of Lake Ontario are important for migrating birds and bats"...and established that migrants are flying at altitudes that place them at risk of collision with current or future wind energy development in the area." The importance of shoreline areas, as revealed by our study, highlight the need to avoid these areas as migration corridors as recommended in the Service's Land-based Wind Energy Guidelines." (p. 51).

This confirms what ABC and others have been saying all along that the Great Lakes are not a good place to be building large, commercial wind energy facilities from the perspective of wildlife conservation. Building in this area could result large numbers of migratory bird deaths and potentially be in violation of the Migratory Bird Treaty Act, the Endangered Species Act and Bald and Golden Eagle Protection Act. Even worse, given current FWS policy, all of the mortality data would be collected and reported by the regulated industry—a direct conflict of interest—and the public might never know how many and what types of birds and bats are ultimately killed as these data are treated...as trade secrets (Associated press 2014, Jackson 2016). In short, building a large, commercial wind facility near Lake Ontario could be a legal and public relations nightmare for the state's elected officials, all of whom have a legal and moral obligation to protect our nation's public trust resources.

References

- Arnett, E.B. and May, R.F. 2016. Mitigating wind energy impacts on wildlife: Approaches for multiple taxa. *Human-Wildlife Interactions* 19: 28-41.
<http://www.berrymaninstitute.org/files/uploads/pdf/journal/spring2016/MitigatingWindEnergyArnettMay.pdf>
- Associated Press. 2015. PacifiCorp sues to block release of bird-death data at wind farms. *Oregonlive.com*:
http://www.oregonlive.com/business/index.ssf/2014/11/pacificorp_sues_to_block_relea.html
- Jackson, T. 2016. Wind farm sues to block bird death data release. *Sandusky Register*:
<http://www.sanduskyregister.com/Environment/2016/06/24/Wind-farm-sues-to-block-bird-death-data-release>
- Rathbun N. A., T. S. Bowden, R. L. Horton, D. C. Nolfi, E. C. Olson, D. J. Larson, and J. C. Gosse. 2016. Great Lakes Avian Radar Technical Report; Niagara, Genesee, Wayne, and Jefferson Counties, New York; Spring 2013. U.S. Department of Interior, Fish and Wildlife Service, Biological Technical Publication FWS/BTP-301 2016
<https://www.fws.gov/radar/documents/Avian%20Radar%20Sp2013%20Ontario%20Full.pdf>



Shaping the future for birds

Sincerely,

A handwritten signature in black ink, which appears to read "Michael Hutchins". The signature is fluid and cursive.

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

Cc: D. Ashe, J. Ford, Hon. A.M. Cuomo