

MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Heydinger Chair
Dan Lipschultz Commissioner
David C. Boyd Commissioner
Nancy Lange Commissioner
Betsy Wergin Commissioner

December 2, 2014

In the Matter of the SWS Wind Substation, LLC; Site Permit for a 20-Megawatt Large Wind
Wind
Energy Conversion System Project in SWS County
ISSUE DATE: September 23, 2008; October 12, 2011
DOCKET NO. IP-6666/WS-08-208

Honorable Commissioners:

Recent filings to this docket (WS-08-208) refer to Bird and Bat Conservation Survey's (BBCS) undertaken by consultants with Westwood Professional Services at the behest of the developers of the Sibley Wind Substation. Undertaking a BBCS is voluntary and I appreciate the developer's willingness to gather data to protect ecological balance in and around the operational area of the proposed project footprint. However; filings by citizens indicate that there are significant problems with the quality of the work being performed by Westwood Professional Services and questions as to whether the surveys are being conducted at all. This, unfortunately, leads to questions about the veracity of claims made by the developer as well.

This is not the first time Westwood will have made claims about performing surveys when said surveys were not done. Additionally, Westwood has a proven inability to spot, identify and properly map eagles and/or their nests when conducting surveys on behalf of wind energy developers. I am referring to the AWA Goodhue project, where Westwood biologists not only made claims of fictitious surveys but they repeatedly denied the presence of eagle's and Important Eagle Use Areas (IEUA's) in documents submitted to the USFWS, the MN DNR and the MPUC in order to mitigate risk to the developer. (08-1233)

Photograph's and other documentation provided by citizens for this docket indicate that the proposed operational area for the proposed Sibley Wind turbine array is an important migratory stopover site frequented by large flocks of birds during both the spring and fall migration periods. This important avian-use information is missing in any and all reports filed to this docket. This area is also frequented by both resident and transient populations of bald eagles, which are protected by the United States Fish and Wildlife Service (USFWS) under the Bald and Golden Eagle Protection Act (BGEPA). The discovery of four previously unknown, active bald eagle nests by citizens who were not actively looking for nests calls into question the integrity and veracity of the wildlife surveys and reports filed by Westwood and/or the developer, especially given Westwood's previous attempts at obfuscation and deception in the Operational Area for the proposed AWA Goodhue development.

Environmental assessments must be based on the environment and the ecosystem the way it actually *is*, regardless of whether or not this is the way a project developer wants it to be. I believe it is reckless and improper to ignore willful misfeasance, especially when there is a pattern of misconduct on the part of an Applicant or their consultants.

Given the abundance of data indicating that the information relative to wildlife, including bald eagles, is insufficient or not credible enough to allow the USFWS and MN DNR to provide adequate guidance for this project, I feel it is in the best interest of all parties to amend the Permits to include ***mandatory*** Bird and Bat Conservation Surveys and Acoustical Bat Monitoring protocols that strictly adhere to the Northern Long-eared Bat Interim Conference and Planning Guidance ("NLEB Guidelines"; USFWS 2014a, USFWS 2014b). It would also seem prudent for the developer to hire competent person's for the purpose of properly surveying for IEUA's so an Eagle Conservation Plan (ECP) can be developed and a determination made as to whether or not it is in the best interest of the developer and investors to apply for a Programmatic Take Permit in the event of unintentional "take" of eagles in the Operational Area.

As with the AWA Goodhue project, citizens from Cornish Township appear to be providing the USFWS, DNR, Commerce and the MPUC with more accurate, reliable, verifiable information on the wildlife and potential impacts than the developer. This is improper and should be unacceptable to all regulatory authorities. If the developer is unwilling to or unable to provide adequate, reliable data for the purpose of balancing their financial objectives with local, regional and state environmental imperatives, the Permits for this project or any similar project should be rescinded. Thank you.

Mary Hartman
Rochester, MN

