



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE Mountain-Prairie Region



IN REPLY REFER TO:  
FWS/R6/

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134 Union Boulevard  
Lakewood, Colorado 80228-1807

Crocker Wind Farm, LLC  
Attn: Ms. Jenny Monson-Miller  
8400 Normandale Lake Blvd, Ste 1200  
Bloomington, Minnesota 55437

Dear Ms. Monson-Miller:

The U.S. Fish and Wildlife Service (Service) manages Waterfowl Habitat Protection Easements (Service Easements) on certain parcels (Service Easement Parcels) located within the boundaries of the Crocker Wind Farm (Wind Farm), which is owned and operated by Crocker Wind Farm, LLC (Crocker). Since the Service Easements pre-dated Crocker's wind leases within the Wind Farm, Crocker sought authorization from the Service to develop facilities on the Service Easement Parcels. That request resulted in the Service conducting a National Environmental Policy Act review, including development of an Environmental Assessment and issuance of a Finding of No Significant Impact. As a condition of the decision, Crocker is required to enter into an easement exchange agreement whereby Crocker is authorized to construct, operate, and maintain certain facilities on the Service Easement parcels for the life of the Wind Farm in exchange for conveying compensatory easements to the Service via an exchange of interests in real property pursuant to 16 U.S.C. § 668dd(b)(3). At the end of the life of the Wind Farm, the Service Easements on the Service Easement Parcels will be reinstated.

One of the requirements of the easement exchange is that Crocker provide the Service with financial security in the event Crocker does not decommission the Wind Farm facilities on the Service Easement Parcels. Crocker informed the Service that it had established a decommissioning escrow account in favor of the South Dakota Public Utilities Commission (SDPUC) for the Wind Farm. Crocker and Service representatives discussed the potential of utilizing the existing escrow account for providing the Service with the requisite financial security. However, doing so is not consistent with the Service's easement exchange guidance or past practice, and presents complexities and concerns that cannot be readily resolved. Instead, the Service has advised Crocker to provide an irrevocable letter of credit, as has been done in prior easement exchanges with wind power companies. Crocker has the option of naming the owners of the Service Easement Parcels as the primary beneficiaries under the irrevocable letter of credit, with the Service as an additional named beneficiary under specified circumstances, and Crocker has indicated it intends to pursue this option.

Crocker has informed the Service that it intends to submit a request to the SDPUC to amend the escrow account-related documents to omit the nine turbines and associated facilities located on the

Service Easement Parcels. Crocker has requested that the Service provide a letter of support for its request to the SDPUC. The Service is not able to comment on whether the SDPUC should grant Crocker's request. However, the Service acknowledges that Crocker is providing an irrevocable letter of credit as decommissioning financial security for the nine turbines and associate facilities located on the Service Easement Parcels, and that providing such security naming the Service as a beneficiary is required for the easement exchange. Further, Crocker has noted a concern that the SDPUC escrow account and the irrevocable letter of credit could potentially be drawn on for the same decommissioning obligations. Since each form of financial security is separately administered by different agencies as part of separate processes, Crocker's concern may be warranted.

The Service appreciates Crocker's continued cooperation as we work toward completing the easement exchange. If you have any questions regarding our comments, please contact Mia Hannan at (605) 290-1881 or [Mia\\_Hannan@fws.gov](mailto:Mia_Hannan@fws.gov).

Sincerely,

**AARON MIZE** Digitally signed by AARON MIZE  
Date: 2022.05.06 12:21:06 -06'00'

Aaron Mize  
Chief, Division of Realty