

USFWS and SDGFP

August 12, 2015 Meeting Summary and Correspondence

Dave Phillips

From: Dave Phillips
Sent: Tuesday, September 8, 2015 12:56 PM
To: 'Gates, Natalie'
Cc: Kempema, Silka; Clayton Derby (cderby@west-inc.com); Chad Little; Jennie Geiger
Subject: RE: Apex-Dakota Range follow-up - Business Confidential/Not for Public Distribution

Agreed Natalie, thanks for getting back to me on that. For efficiency sake it is best to have 1 thorough count per month (given costs of mobilization), so we will go with the 1hr counts per the ECPG, 1X/month with solid spatial coverage of the site. That approach is consistent with and effectively addresses the ECPG.

Thanks, Dave

DAVE PHILLIPS
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From: Gates, Natalie [mailto:natalie_gates@fws.gov]
Sent: Tuesday, September 8, 2015 12:51 PM
To: Dave Phillips <dave.phillips@apexcleanenergy.com>
Cc: Kempema, Silka <Silka.Kempema@state.sd.us>; Clayton Derby (cderby@west-inc.com) <cderby@west-inc.com>; Chad Little <chad.little@apexcleanenergy.com>; Jennie Geiger <jennie.geiger@apexcleanenergy.com>
Subject: Re: Apex-Dakota Range follow-up - Business Confidential/Not for Public Distribution

Dave, we did talk about lowering the time spent at each location looking for eagles at our meeting and what you were proposing seemed reasonable. But I decided to look into it a bit more before going against our agency's national guidelines and saying that lower level of effort is adequate. Didn't want to make an off-the-cuff decision without a bit more info. The items below from our guidelines caught my eye:

"Many raptor biologists have suggested that the likelihood of detecting an eagle during a 20- to 40-minute point count survey is extremely low in all but locales of greatest eagle activity and datasets generated by pre-construction point count surveys of this duration typically are replete with counts of zero eagles, resulting in unwieldy confidence intervals and much uncertainty. Moreover, time spent traveling to and accessing points for 20-minute surveys may exceed time spent conducting the observations.Another advantage of longer counts is that they reduce biases created if some eagles avoid conspicuous observers as they approach their points and begin surveys, although some observers may become fatigued and overlook eagles during longer counts."

Since we don't think this is an eagle hot spot, eagle sightings likely will be relatively low, and the guidelines indicate that such areas are where the longer timeframe is particularly appropriate. I recognize an hour is a long time to be out there, particularly in winter. Perhaps there's a compromise possible....shortening the point count length but visiting twice/month? That would offer additional hours on the ground...although that doesn't address the issue of eagles that might avoid conspicuous observers at first.

-Natalie

Natalie Gates
U.S. Fish and Wildlife Service
Ecological Services South Dakota Field Office
420 South Garfield Avenue, Suite 400
Pierre, South Dakota 57501
Phone: 605-224-8693, Ext. 227
Fax: 605-224-9974
<http://www.fws.gov/southdakotafieldoffice/>

On Tue, Sep 1, 2015 at 11:49 AM, Dave Phillips <dave.phillips@apexcleanenergy.com> wrote:

Thank you for your comments Natalie and Silka. Based on your comments, I've made a few changes to the attached meeting summary. Below is what I suggest we do going forward:

- 1) Avian/eagle use: I thought we agreed that an appropriate survey plan included 20 min avian point counts covering 30% of the project area, 1x/mo, during the potential eagle risk period (i.e., winter), to assess whether or not there might be areas of concern to avoid with turbine siting, or if there might be an issue warranting further study or permitting. I didn't think we were talking about ECPG level studies, although what we've proposed certainly provides strong spatial and temporal coverage and assesses the area well with regard to an eagle/winter avian risk assessment. Natalie, in response to your suggestion, we will bump this up to 1hr point counts to be consistent with the ECPG and get that done this winter. If I am misinterpreting this recommendation, and you'd prefer that we scale back in this area to the 20-min assessment, please let me know.
- 2) Leks: I think it is reasonable to do lek surveys to identify previously undocumented leks in or near the project, so we will go ahead and plan to do that this spring. However, Silka, can you please clarify for me the regulatory protection afforded to leks in South Dakota so we can plan accordingly?
- 3) Grasslands: we can't avoid all grasslands and build a project like this. What is great about wind is that the habitat impacts are small and the majority of the grasslands remain intact. Clayton and I have been wrestling with how best to approach this issue, given that the majority of the grasslands aren't protected but your recommendations to avoid and/or mitigate are so strong. I think what we need to do given this juncture is design our project and then have qualified biologists assess the areas for potential suitability for the listed butterflies. Then, if the habitat is such that it may support butterfly species, we will either avoid or survey for presence/probable absence. This will result in the conservation benefit of avoiding high quality grasslands, retaining intact habitats for grassland obligate birds. And, we can continue to discuss options for potential mitigation.

I've made a few changes to the meeting summary based on the comments. We will circle back when the surveys are complete and review findings at that time.

Thanks again, Dave

DAVE PHILLIPS

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From: Gates, Natalie [mailto:natalie_gates@fws.gov]

Sent: Monday, August 24, 2015 12:55 PM

To: Dave Phillips <dave.phillips@apexcleanenergy.com>

Cc: Kempema, Silka <Silka.Kempema@state.sd.us>; Clayton Derby (cderby@west-inc.com) <cderby@west-inc.com>; Chad Little <chad.little@apexcleanenergy.com>

Subject: Re: Apex-Dakota Range follow-up - Business Confidential/Not for Public Distribution

I do have a few comments - attached.

Thank you,

-Natalie

Natalie Gates

U.S. Fish and Wildlife Service

Ecological Services South Dakota Field Office

420 South Garfield Avenue, Suite 400

Pierre, South Dakota 57501

Phone: 605-224-8693, Ext. 227

Fax: 605-224-9974

<http://www.fws.gov/southdakotafieldoffice/>

On Tue, Aug 18, 2015 at 4:43 PM, Dave Phillips <dave.phillips@apexcleanenergy.com> wrote:

Thanks Silka.

Natalie, any comments before I revise based on Silka's comments?

Dave

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From: Kempema, Silka [mailto:Silka.Kempema@state.sd.us]

Sent: Tuesday, August 18, 2015 4:24 PM

To: Dave Phillips <dave.phillips@apexcleanenergy.com>; Gates, Natalie <natalie_gates@fws.gov>

Cc: Clayton Derby (cderby@west-inc.com) <cderby@west-inc.com>; Chad Little

<chad.little@apexcleanenergy.com>

Subject: RE: Apex-Dakota Range follow-up - Business Confidential/Not for Public Distribution

Hi all,

I reviewed the minutes from our meeting. Thanks for putting them together, Dave.

A few thoughts that were not included and some comments. I strongly encourage having alternate sites to help with micro-siting of turbines. Information on grouse was not accurate as there are known leks in the project area. Other unknown leks are likely to go undetected if other survey efforts are not conducted in April (page 14 of power point). Under the “General Avian” section, I’d avoid stating that collision risk for birds is low, year-round for all birds. Maybe rephrase this or cite the information on which the statement is being made. In the same section, my recommendation is to avoid all grasslands. If forced to choose, I agree with avoiding high quality areas first, but my recommendation is to avoid all grasslands. I know this will likely not happen. In the “Operational Monitoring” section, given the extreme potential annual variation in bat activity we’ve seen in SD at other sites that have been monitored spring through fall, I recommend 2 years of post-construction monitoring especially since pre-construction monitoring for other bat species will not be conducted.

A bit of follow-up information:

Location of SD public lands: <http://gfp.sd.gov/images/WebMaps/Viewer/WILMA/>

Species monitored by Natural Heritage Program: <http://gfp.sd.gov/wildlife/threatened-endangered/rare-animal.aspx> . To make a data request: <https://www.state.sd.us/eforms/secure/eforms/E1157V1-HeritageDataRequest.pdf>. You may already be aware of this based on your power point.

Please be aware of SD’s Species of Greatest Conservation Need. This is a species list generated as part of our state Wildlife Action Plan. Species and the criteria used to select them can be found at http://gfp.sd.gov/images/WebMaps/Viewer/WAP/Website/PlanSections/WAPCh2_SGCN.pdf. All of the state and federal listed TE species are on the list and some of the species monitored by the Heritage program.

I’ll send Clayton the prairie grouse and waterbird colony data. Prairie grouse data are from 2010 and 2011, a MS study out of South Dakota State University (<http://pubstorage.sdstate.edu/wfs/thesis/Orth-Mandy-R-2012-MS.pdf>). Colonial waterbird data are from 2005-2007. A bit of information on the study can be found at <http://rmbo.org/v3/OurWork/Science/BirdPopulationMonitoring/SpecializedPrograms/SDColonialWaterbirds.aspx>.

Information on the second SD Breeding Bird Atlas (<http://www.rmbo.org/SDBBA2/>).

Our agency wrote a comment letter on the Summit Wind EA. It was not well done. I've attached our comment letter. I know that WEST did survey work and it really seemed (if I'm remembering correctly) as if the results of those surveys were not included. I don't believe WEST wrote the EA.

Brian Rounds, South Dakota Public Utilities Commission (brian.rounds@state.sd.us; 605-773-3201).

Silka

From: Dave Phillips [<mailto:dave.phillips@apexcleanenergy.com>]
Sent: Friday, August 14, 2015 6:22 AM
To: Gates, Natalie; Kempema, Silka
Cc: Clayton Derby (cderby@west-inc.com); Chad Little
Subject: RE: Apex-Dakota Range follow-up - Business Confidential/Not for Public Distribution

Hello all, please see revised notes (attached), in which I've added discussion of the listed butterflies that I had inadvertently left out of the draft sent last night. If you could please direct us to the appropriate protocols for assessing habitat suitability for these species, and for assessing presence/absence within suitable habitat, it would be much appreciated so we can plan accordingly.

Thanks, Dave

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From: Dave Phillips
Sent: Thursday, August 13, 2015 9:02 PM
To: 'Gates, Natalie' <natalie_gates@fws.gov>; 'Kempema, Silka' <Silka.Kempema@state.sd.us>
Cc: Clayton Derby (cderby@west-inc.com) <cderby@west-inc.com>; Chad Little <chad.little@apexcleanenergy.com>
Subject: Apex-Dakota Range follow-up - Business Confidential/Not for Public Distribution

Hello Silka and Natalie, attached is a summary of our discussion and a copy of the PPT presented in our meeting yesterday.

If you have comments on the meeting summary, or find that edits are needed, please let me know and I will revise accordingly before finalizing. Otherwise, if you could confirm that they accurately reflect our discussion and your recommendations at this time, that would be much appreciated.

Thank you very much for your input on the project.

Sincerely, Dave

DAVE PHILLIPS

Environmental and Wildlife Permitting Director

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DAKOTA RANGE WIND PROJECT - MEETING SUMMARY

Meeting Attendees: Natalie Gates, USFWS
Silka Kempema, SDGFP
Dave Phillips, Apex
Chad Little, Apex
Clayton Derby, WEST

Notes Prepared by: Apex

Date: September 1, 2015

On August 12, 2015, Apex Clean Energy (Apex) met with the U.S. Fish and Wildlife Service (USFWS) and South Dakota Game Fish and Parks (SDGFP) to discuss the proposed Dakota Range Wind Project (Project) in Codington and Grant Counties, South Dakota. The purpose of the meeting was to introduce the agencies to Apex, discuss the project and Tier 1 and 2 reviews, agree on Tier 3 studies to be completed to assess risk, and discuss potential impact avoidance and minimization measures for the project. The meeting was held at the SDGFP Office in Pierre, South Dakota. The following is a summary of the topics discussed and notes based on subsequent email discussion of survey plans.

Apex presented an overview of the company, project status, risk assessment completed to date and Apex's proposed studies using the attached Power Point (PPT) presentation. Some points of clarification to the PPT were noted by USFWS and SDGFP regarding the proposed avian use study plan, the need to assess grouse leks, and the importance of minimizing impacts so as not to cause indirect effects on grassland obligate birds; however, it was agreed that the material presented in the PPT was accurate and adequately addressed the Tier 1 and Tier 2 review processes as recommended in the USFWS Wind Energy Guidelines.

Eagles: Apex and USFWS agreed that the project site presented low risk to eagles, but that studies were warranted to assess eagle nests within 10 miles of the project, and to evaluate potential for eagle risk during winter. The group agreed that 20-minute point counts during December, January and February could be used to assess whether or not there might be areas of concern to avoid with turbines, or to determine if there was an issue warranting further study or potential permitting, but that it may be prudent to apply the 60-minute point count approach to winter assessment as suggested in the Eagle Conservation Plan guidance (ECGP). Therefore, it was agreed that 60-minute point counts, using 800-m radius plots covering approximately 30% of the project, studied once each month during December, January and February provide adequate spatial and temporal coverage to assess winter use. Also, if nests are found in close proximity to the project during nest surveys, similar studies of eagle use near nests during spring/early summer may be appropriate to determine how nesting eagles and their young might use the project area. No summer, spring, or fall eagle point count surveys were recommended and at this time, none are planned.

General Avian: Winter raptors (e.g., short eared owl, rough-legged hawk, etc.) and passerines (e.g., snow buntings) were identified as of potential concern, and it was agreed that the winter eagle use surveys would effectively evaluate the potential use by these species by recording all birds observed during point counts. Although collision risk is likely to be low year-round for all birds, the loss of grassland habitat associated with installation of turbines and roads was identified as a primary concern of USFWS and SDGFP. Avoidance of higher quality grassland habitats and potential mitigation of habitat impacts through acquisition of conservation easements or other methods of generating conservation lands was recommended for Apex to consider; however, it is recognized that this is not required by regulation. Given that existing information on nearby wind projects is substantial (i.e., Summit Wind), it was agreed that breeding bird or migration period surveys would not contribute information beyond what we already know about these habitat types in this region, and that bird use and operational fatality would be within acceptable limits as presented in Attachment 2.

Grouse Leks: It was agreed during the meeting that lek surveys were not warranted; however, subsequent communication from SDGFP indicated this resource issue warrants baseline survey. Apex will complete lek surveys in Spring 2015.

Bats: USFWS and SDGFP agreed that general acoustic monitoring was limited in utility given Apex's intent to avoid treed and wetland habitats with turbine siting and to feather turbines up to manufacturer's cut in speed. But, both agencies agreed that it was important to assess potential summer presence of northern long-eared bat using USFWS protocols, and inform siting and operational protocols if presence was confirmed.

Listed Species: Potential exists for the Dakota skipper to occur in suitable habitats within the project area, and although highly unlikely, the Poweshiek skipperling could also occur; therefore surveys to habitat potential is warranted in areas planned for disturbance. USFWS and SDGFP recommend avoiding identified suitable habitat, or that presence-absence surveys be completed in suitable habitat to determine if avoidance is required to avoid permitting under Section 10 of the Endangered Species Act. Apex will follow appropriate survey protocols for the species using qualified surveyors (e.g., Dennis Skadsen).

With the exception of northern long-eared bat and these butterflies, no other species-specific protocols were recommended for federal or state-listed species due to the low risk nature of the project site.

Operational Monitoring:

It was discussed that an operational monitoring program to assess low risk conclusions is appropriate for this project site. One, possibly two, years of monitoring during the fall bat migration period, and possibly during the winter avian risk period may be appropriate; however, results of the studies described above are expected to inform the level of operational monitoring warranted for the site.

II. Action Items:

During the discussions, several action items surfaced:

- Apex will meet with Connie Mueller from USFWS @ Waubay NWR, SD, to identify and define key grassland habitats within the proposed project area.
- Apex will assess the potential for listed butterflies and the quality of grassland habitat present within the project site and work to design the project in response to these findings.
- Apex will complete the studies discussed and planned for the project to assess bird and bat risk.
- Apex will meet with USFWS and SDGFP to discuss survey results and agree on next steps in late summer/fall 2016.

USFWS and SDGFP

March 28, 2017 Meeting Summary and Correspondence

Jennie Geiger

From: Jennie Geiger
Sent: Thursday, April 6, 2017 4:44 PM
To: Natalie Gates (natalie_gates@fws.gov); Mueller, Connie (connie_mueller@fws.gov); Silka Kempema (silka.kempema@state.sd.us); Murphy, Leslie
Cc: Dave Phillips (dave.phillips@apexcleanenergy.com); Nate Pedder (nate.pedder@apexcleanenergy.com); Mark Mauersberger (mark.mauersberger@apexcleanenergy.com)
Subject: BUSINESS CONFIDENTIAL: Dakota Range Meeting Follow Up
Attachments: DKR_USFWS_SDGFP Agency Meeting Summary_2017-04-06.pdf; Final Summit Winds Bat Acoustic Report_23March2015.pdf

Hi Natalie/Silka/Connie/Leslie –

Thank you for meeting last week to discuss the Dakota Range I Wind Project. I have attached meeting notes outlining the topics discussed, as well as the Powerpoint presentation (PPT) presented. Note that I have revised slide 16 to accurately reflect the original habitat assessment area for the DASK/POSK, as well as added a slide presenting information on the acoustic bat surveys conducted at the adjacent Summit Wind Farm in similar habitats (I have also attached the report from Summit Wind to this email). This study shows that bat risk is generally low and the BMPs discussed are appropriate to avoid and minimize impacts to bats at the Dakota Range I Wind Project.

Also, Apex completely understands that maintaining intact grassland habitat is a regional priority for both agencies. In response to your feedback we've committed to avoid all grasslands (and wetlands) currently protected as USFWS easements and will avoid siting facilities in higher quality grassland habitats as practicable.

Thank you again for your time and helpful input. I look forward to connecting again soon once studies are complete.

Regards,
 Jennie

JENNIE GEIGER
 Environmental Permitting Manager

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 310 4th St. NE, Suite 200, Charlottesville, VA 22902
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DAKOTA RANGE I WIND PROJECT - MEETING SUMMARY

Meeting Attendees: Natalie Gates, USFWS
 Silka Kempema, SDGFP
 Leslie Murphy, SDGFP
 Jennie Geiger, Apex
 Connie Mueller, USFWS (by phone)
 Dave Phillips, Apex (by phone)
 Nate Pedder, Apex (by phone)

Notes Prepared by: Apex

Date: April 6, 2017

On March 28, 2017, Apex Clean Energy (Apex) met with the U.S. Fish and Wildlife Service (USFWS), and South Dakota Game, Fish and Parks (SDGFP) to continue coordination on the Dakota Range I Wind Project (Project) in accordance with the USFWS 2012 Guidelines for Land-based Wind Energy Projects and 2013 Eagle Conservation Plan Guidance (ECPG). The purpose of the meeting was to review the current project boundary, discuss the results of wildlife studies completed to date, and agree on next steps necessary for the project to proceed to construction and operations. The meeting was held at the SDGFP Office in Pierre, South Dakota. The attached Powerpoint (PPT) presentation was provided and the following is a summary of the topics discussed.

There was general agreement that the material presented in the PPT presentation was accurate and that the studies being completed and proposed are appropriate for risk assessment. It was also agreed that the overall impacts and risk associated with the revised boundary was improved as a result of the focus on disturbed agricultural landscape and reduced density of intact grasslands in the new boundary. Both USFWS and SDGFP voiced appreciation of the steps Apex had taken to avoid higher risk areas (e.g., USFWS easements, leks, eagle nests) with Project facilities.

Avian Studies: Apex presented results from avian use, raptor nest, and grouse lek surveys conducted to date. USFWS requested that additional eagle nest surveys be conducted to improve determination of the number and location of occupied bald eagle nests in accordance with ECPG guidance. A 10 mi bald eagle nest survey area buffer and 1 mi non-eagle raptor nest survey area buffer around the project area for spring 2017 nest surveys was determined acceptable. USFWS also recommended that additional survey points be incorporated to evaluate potential eagle use in the northwest portion of the revised boundary. The survey approach of 5 min small bird surveys followed by 60-minute ECPG- level surveys consisting of 20-minute raptor/large bird and 40-minute eagle only surveys was deemed acceptable and consistent with the WEG and ECPG.

Bats: It was agreed that risk to federal/state-listed bats is limited to the federally threatened northern long-eared bat, and that the period of risk is most likely during migration only due to the limited amount of summer habitat onsite. Both agencies agreed that the proposed best management practices (1,000 ft turbine setback from potentially suitable NLEB habitat, feathering

to manufacturer's cut in speed from sunset to sunrise during the bat active period [Apr 15-October 15 and operational monitoring during this period to evaluate effectiveness) are appropriate to minimize and respond to potential impact to other bat species.

SDGFP requested bat acoustic surveys be conducted in July and August to assess bat activity patterns during fall migration; however, it was discussed that data from the acoustic surveys conducted at the adjacent Summit Wind Farm may provide sufficient information to assess risk at this project due to the similarity in habitats. Since the meeting, Apex provided the Summit Wind Farm Acoustic Bat Report to both agencies and added slide 11 to the attached PPT summarizing the study protocol and results. The Summit Wind study provided indicates low passage rates of bats overall, especially at ground units in open habitats compared to wooded habitats and supports the appropriateness of implementing the aforementioned BMPs without preconstruction acoustic studies. Given the 4d rule exemption for northern long-eared bats, no further studies or permitting are needed to ensure ESA compliance.

Federally Listed Species: USFWS and SDGFP confirmed that the only federally listed species with the potential to occur within the revised Project boundary are the northern long-eared bat (discussed above) and the Dakota skipper and Poweshiek skipperling. As discussed, Apex will complete additional habitat assessments for the butterfly species within the unsurveyed portions of the current boundary (see slide 15 of the PPT), and either avoid areas identified as potentially suitable for the species or conduct presence/absence surveys to ensure no impact to either species.

Other Wildlife: USFWS and SDGFP confirmed that no additional species-specific surveys are warranted for state protected species or other wildlife.

Action Items:

- Apex to provide shapefiles of the revised boundary to SDGFP and USFWS.
- Apex to complete additional studies and reconvene with USFWS and SDGFP once complete.

USFWS and SDGFP

September 25, 2017 Meeting Summary and Correspondence

Jennie Geiger

From: Gates, Natalie <natalie_gates@fws.gov>
Sent: Monday, October 02, 2017 9:48 AM
To: Jennie Geiger
Subject: Re: Dakota Range I Follow Up

Yep, got it. Thank you.

*Natalie Gates, U.S. Fish and Wildlife Service
Ecological Services South Dakota Field Office
420 South Garfield Avenue, Suite 400
Pierre, South Dakota 57501
Phone: 605-224-8693, Ext. 227; Fax: 605-224-9974
<http://www.fws.gov/southdakotafieldoffice/>*

On Mon, Oct 2, 2017 at 9:18 AM, Jennie Geiger <jennie.geiger@apexcleanenergy.com> wrote:

Good morning Natalie/Silka/Leslie/Connie –

I sent out the 9/25/17 meeting notes, shps of the project area, and the 2015-2017 Avian/Eagle Use Summary on Friday afternoon. Can you confirm that you received them as the file size was quite large?

Thanks,
Jennie

JENNIE GEIGER

Environmental Permitting Manager

Apex Clean Energy, Inc.

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jennie.geiger@apexcleanenergy.com | www.apexcleanenergy.com



From: Kempema, Silka
To: [Jennie Geiger](#); Natalie_Gates@fws.gov; [Murphy, Leslie](#); [Mueller, Connie \(connie_mueller@fws.gov\)](mailto:Mueller_Connie_(connie_mueller@fws.gov))
Subject: RE: Dakota Range I Follow Up
Date: Monday, October 02, 2017 8:39:30 AM
Attachments: [image001.png](#)

Yes, I received them.

Thanks, Jennie.

Silka

From: Jennie Geiger [<mailto:jennie.geiger@apexcleanenergy.com>]
Sent: Monday, October 02, 2017 9:18 AM
To: Natalie_Gates@fws.gov; Kempema, Silka; Murphy, Leslie; Mueller, Connie (connie_mueller@fws.gov)
Subject: [EXT] Dakota Range I Follow Up

Good morning Natalie/Silka/Leslie/Connie –

I sent out the 9/25/17 meeting notes, shps of the project area, and the 2015-2017 Avian/Eagle Use Summary on Friday afternoon. Can you confirm that you received them as the file size was quite large?

Thanks,
Jennie

JENNIE GEIGER
Environmental Permitting Manager

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From: Mueller, Connie
To: [Jennie Geiger](#)
Cc: [Natalie Gates \(natalie_gates@fws.gov\)](#); [Silka Kempema \(silka.kempema@state.sd.us\)](#); [Murphy, Leslie](#)
Subject: Re: Dakota Range I Follow Up
Date: Monday, October 02, 2017 8:21:03 AM

Yes, they arrived in my inbox.

Thanks.

Connie Mueller, Project Leader
Waubay NWR Complex
44401 134 A Street
Waubay, SD 57273
605-947-4521 ext 110 office



National Wildlife Refuges - Where Wildlife Comes First

On Mon, Oct 2, 2017 at 9:18 AM, Jennie Geiger <jennie.geiger@apexcleanenergy.com> wrote:

Good morning Natalie/Silka/Leslie/Connie -

I sent out the 9/25/17 meeting notes, shps of the project area, and the 2015-2017 Avian/Eagle Use Summary on Friday afternoon. Can you confirm that you received them as the file size was quite large?

Thanks,
Jennie

JENNIE GEIGER
Environmental Permitting Manager

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[cid:image001.png@01CE6DB9.0BF695D0]

From: [Jennie Geiger](#)
To: [Natalie Gates \(natalie_gates@fws.gov\)](#); [Silka Kempema \(silka.kempema@state.sd.us\)](#); [Mueller, Connie \(connie_mueller@fws.gov\)](#); [Murphy, Leslie](#)
Cc: [Dave Phillips \(dave.phillips@apexcleanenergy.com\)](#)
Subject: BUSINESS CONFIDENTIAL: Follow Up on Dakota Range I Apex_Agency Meeting
Date: Friday, September 29, 2017 1:25:29 PM
Attachments: [image001.png](#)
[DKR_Agency Meeting Summary and PPT_2017-09-26.pdf](#)
[DKR_2015-17 Avian-Eagle Use Summary_2017-09-28.pdf](#)
[DKR_bdy_20170919.zip](#)

Hi Natalie/Silka/Connie/Leslie –

Thank you for meeting earlier this week to discuss the Dakota Range I Wind Project. I have attached meeting notes outlining the topics discussed, as well as the Powerpoint presentation (PPT) presented. Note that we have revised the table on slide 8 to accurately reflect the results of the 2016 and 2017 lek surveys, as well as adjusted the colors of the USFWS easements on slide 13 to eliminate confusion.

As discussed, I have also attached shps for the current Project boundary, as well as the 2015-17 Avian/Eagle Use Summary for your records and review.

Thank you again for your time and helpful input.
Jennie

JENNIE GEIGER
Environmental Permitting Manager

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DAKOTA RANGE I WIND PROJECT - MEETING SUMMARY

Meeting Attendees: Natalie Gates, USFWS
Silka Kempema, SDGFP
Leslie Murphy, SDGFP
Jennie Geiger, Apex
Clayton Derby, WEST
Connie Mueller, USFWS (by phone)
Dave Phillips, Apex (by phone)

Notes Prepared by: Apex

Date: September 29, 2017

On September 25, 2017, Apex Clean Energy (Apex) met with the U.S. Fish and Wildlife Service (USFWS), and South Dakota Game, Fish and Parks (SDGFP) to continue coordination on the Dakota Range I Wind Project (Project) in accordance with the USFWS 2012 Guidelines for Land-based Wind Energy Projects and 2013 Eagle Conservation Plan Guidance (ECPG). The purpose of the meeting was to discuss the results of wildlife studies completed to date, agree on avoidance and minimization measures, and agree on any necessary steps to complete in advance of submittal of a South Dakota Public Utilities Commission Wind Energy Conversion Facility Siting Permit application in November 2017.

The meeting was held at the SDGFP Office in Pierre, South Dakota. The attached Powerpoint (PPT) presentation was provided and the following is a summary of the topics discussed. Copies of all finalized reports discussed within the PPT were provided to USFWS and SDGFP on September 22, 2017.

Federally Listed Species: It was agreed that given the findings of studies completed to date and the resulting low risk to federally listed species, no further studies are recommended for federally listed species and risk is such that no permits are required. Details for the federally listed species with potential to occur are as follows:

- Dakota skipper/Poweshiek skipperling: It was agreed that because the Project is designed to avoid suitable habitat, no further surveys are needed to confirm no impact.
- Northern long-eared bat: It was agreed that feathering to mfr cut in speed from Apr 15-Oct 15 and avoiding tree removal during June and July would minimize risk of impact to northern long-eared bat and other bat species.
- Red knot: It was agreed that this species is unlikely to occur or be affected by the Project.
- Whooping crane: It was agreed that this species is unlikely to occur, but that training staff to recognize the species if present and respond with a specified response plan are reasonable precautions.
- Topeka shiner: It was agreed that the species will be unaffected by Project activities.

Birds: Apex presented results from the avian/eagle use, raptor nest, and grouse lek surveys conducted in 2017, as well as risk assessment slides combining data from all surveys conducted to

date. There was agreement that the surveys conducted to date were sufficient to adequately assess risk within the Project area during the seasons evaluated; however, USFWS noted that the low levels of documented activity by birds of conservation concern were likely a function of the seasons evaluated and that more may occur during breeding season.

USFWS believes that grassland mitigation through easement or fee acquisition is appropriate to offset displacement impacts to grassland birds; however, very limited studies are available to understand this potential affect. Apex clarified that current research shows that displacement appears to occur for some species and not others, but that such effects would not be considered “take” as per MBTA standards and that mitigation in this manner would not provide liability protection under the MBTA. Apex has addressed this recommendation by avoiding and minimizing impacts on grasslands to the maximum extent practicable (see slide 14) to substantially reduce potential displacement impacts that may be caused by construction or operation of the Project. Both agencies agreed that the avoidance/minimization measures outlined on slides 9 (prairie grouse), 11 (eagles), 14 (grasslands) and 15 (general) were appropriate to reduce potential impacts to species of concern.

Apex indicated that updates to the raptor nest and grouse lek survey reports would be completed once the layout is finalized, and that agreed upon avoidance/minimization measures would be applied where appropriate. It was also agreed that the low level of eagle use documented during eagle studies completed for the 2 winters and 1 spring season, coupled with the comparable data collected year-round at the adjacent Summit Wind Farm site, indicated a low risk site for eagles with no permit warranted.

Other: Apex presented a slide identifying USFWS easements within the Project boundary and illustrating how facilities have been designed to avoid the easements (slide 13). USFWS confirmed that this was appropriate to avoid a federal nexus; however, recommended Apex request an updated easement map to ensure that the most current data is incorporated into final siting considerations.

Both USFWS and SDGFP voiced appreciation of the steps Apex had taken to focus facilities on disturbed agricultural lands and avoid higher risk areas (e.g., USFWS easements, leks, nests, untilled grasslands).

Action Items:

- Apex to provide shapefiles of the current boundary to SDGFP and USFWS (sent with these meeting notes).
- USFWS to provide updated information on easements located within Project boundary based on above shps.
- Apex to provide a copy of the avian/eagle use survey report that combines data from all surveys conducted to date once final (sent with these meeting notes).

SHPO

June 13, 2017 Meeting Summary and Correspondence

Jennie Geiger

From: Jennie Geiger
Sent: Wednesday, July 5, 2017 2:33 PM
To: 'Olson, Paige'
Cc: Dave Phillips; Nelson, Kate; Carlson Dietmeier, Jenna
Subject: RE: BUSINESS CONFIDENTIAL: Dakota Range Meeting Summary

Hi Paige –

Thank you for confirming that you were able to open the shapefiles. One correction, however, is that the project is located in Grant and Codington Counties. If that is not what the boundary I sent is illustrating please let me know and I will resend.

Thanks – hope you had a nice holiday weekend ☺

Jennie

JENNIE GEIGER
office: 434-260-6982 | cell: 720-320-9450
jennie.geiger@apexcleanenergy.com



From: Olson, Paige [mailto:Paige.Olson@state.sd.us]
Sent: Wednesday, July 5, 2017 10:37 AM
To: Jennie Geiger <jennie.geiger@apexcleanenergy.com>
Cc: Dave Phillips <dave.phillips@apexcleanenergy.com>; Nelson, Kate <Kate.Nelson@state.sd.us>; Carlson Dietmeier, Jenna <Jenna.CarlsonDietmeier@state.sd.us>
Subject: RE: BUSINESS CONFIDENTIAL: Dakota Range Meeting Summary

Hi Jennie,

I just want to verify that I've opened all of appropriate files you sent on June 22nd. I downloaded the information into ArcMap and see the boundaries of the wind project in Day and Codington Counties. Is this correct? Did I miss anything?

Thanks,
Paige

Paige Olson
Review and Compliance Coordinator
South Dakota State Historical Society
900 Governors Drive
Pierre, SD 57501
(605) 773-6004

From: Jennie Geiger [mailto:jennie.geiger@apexcleanenergy.com]
Sent: Thursday, June 29, 2017 1:48 PM
To: Olson, Paige

Cc: Dave Phillips

Subject: RE: [EXT] BUSINESS CONFIDENTIAL: Dakota Range Meeting Summary

Hi Paige –

I just wanted to follow up with you and make sure you were able to open the shapefiles I sent last Friday? If a PDF map would be more useful, please let me know and I will send that along.

Also, I wanted to let you know that we are working with Burns and McDonnell and other cultural firms to address your concerns about archaeological surveys, as well as to assess the architectural review information available through the SHPO CRGRID. We will circle back with you very shortly to revisit the topic once we have our plan together and some ideas on next steps.

Thank you again for your thoughtful input. Please let me know if you would like to further discuss anything regarding the project at this time.

Jennie

JENNIE GEIGER

office: 434-260-6982 | cell: 720-320-9450

jennie.geiger@apexcleanenergy.com



From: Olson, Paige [<mailto:Paige.Olson@state.sd.us>]

Sent: Friday, June 23, 2017 4:34 PM

To: Jennie Geiger <jennie.geiger@apexcleanenergy.com>

Subject: RE: BUSINESS CONFIDENTIAL: Dakota Range Meeting Summary

Hi Jennie,

We received your e-mail and attachments. I'm having some trouble opening the attachments, but will ask our computer guru on Monday.

Thank you!

Paige

Paige Olson
Review and Compliance Coordinator
South Dakota State Historical Society
900 Governors Drive
Pierre, SD 57501
(605) 773-6004

From: Jennie Geiger [<mailto:jennie.geiger@apexcleanenergy.com>]

Sent: Thursday, June 22, 2017 1:15 PM

To: Olson, Paige; Nelson, Kate; Carlson Dietmeier, Jenna

Cc: Dave Phillips; Mark Mauersberger; Nate Pedder; Bell, Jennifer

Subject: [EXT] BUSINESS CONFIDENTIAL: Dakota Range Meeting Summary

Hello Paige/Kate/Jenna –

Thank you for meeting with us last week to discuss the Dakota Range Wind Project. Attached is the summary of our June 13, 2017 meeting, including the Powerpoint presentation discussed, for your review and consideration. Given the size of the email attachment, it would be much appreciated if you could confirm receipt of this email.

Thanks,
Jennie

JENNIE GEIGER
Environmental Permitting Manager

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DAKOTA RANGE WIND PROJECT - MEETING SUMMARY

Meeting Attendees: Paige Olsen, SHPO
Kate Nelson, SHPO
Jenna Carlson Dietmeier, SHPO
Jennifer Bell, Burns & McDonnell
Mollie Smith, Fredrikson & Byron
Mark Mauersberger, Apex
Nate Pedder, Apex
Dave Phillips, Apex (by phone)
Jennie Geiger, Apex (by phone)

Notes Prepared by: Apex

Date: June 22, 2017

On June 13, 2017, Apex Clean Energy (Apex) met with staff of the South Dakota State Historical Society to discuss the Dakota Range Wind Project (Project). The purpose of the meeting was to introduce the project, coordinate with SDSHS per the Public Utilities Commission (PUC) Guidelines for Wind Power Projects, and agree on next steps to ensure regulatory compliance. The meeting was held at the SDSHS Office in Pierre, South Dakota. The attached Powerpoint (PPT) presentation was provided and the following is a summary of the topics discussed.

Apex presented information on Project status, clarifying that the Project will be located entirely upon private lands and thus there is no federal nexus that would trigger National Historic Preservation Act Section 106 requirements. It was agreed that regulatory compliance would be achieved by meeting state and local cultural resource protection laws as required by the PUC to issue a Wind Energy Conversion Facility Siting Permit.

Apex presented information on its consultation and coordination with stakeholders to date, as well as the results of the Level I Cultural Resources Records Search completed by Westwood, Inc. in November 2016. Because there is no federal nexus for the Project, Level III field investigations are not required to ensure regulatory compliance; however, SHPO recommended Level III surveys be completed in non-cultivated areas where ground disturbance is planned to minimize risk of impacts.

The SHPO concurred that the impact minimization and avoidance measures presented on slides 10-11 are appropriate to ensure regulatory compliance. Apex indicated that a Cultural Resources Management Plan would be prepared for the Project, which would include information on staff training and how potential unanticipated discoveries would be handled if found.

The SHPO mentioned that they do not have regulatory authority or expertise regarding fossil resources and offered to provide an agency contact to confirm Westwood's conclusion that the Project lacks fossil resource potential due to glaciation. The SHPO offered to provide a list of potential stakeholders, as well as a sample Monitoring and Mitigation Plan for Apex's consideration. It was agreed that avoidance of direct impact to protected cultural resources

would be the goal during Project design, construction and operations; therefore, no mitigation, data recovery, mapping or analyses is expected.

Action Items:

- Apex to provide shapefiles of the project boundary to SHPO (provided with transmittal of this email).
- SHPO to provide the following to Apex:
 - Contact information of agency with fossil expertise
 - List of potential stakeholders that should be informed of the Project
 - Example monitoring and mitigation plan from previous non-federal nexus

SHPO

Correspondence Regarding August 29, 2017 Meeting and CRMMP

Jennie Geiger

From: Jennie Geiger
Sent: Friday, September 1, 2017 2:42 PM
To: 'Carlson Dietmeier, Jenna'; Dave Phillips; Nelson, Kate
Subject: RE: Dakota Range Wind - CRMMP
Attachments: DKR_ Cultural Resources Monitoring and Management Plan_2017-09-01_Final.pdf

Thanks Jenna. The requested changes have been made and the final document is attached.

JENNIE GEIGER
office: 434-260-6982 | cell: 720-320-9450
jennie.geiger@apexcleanenergy.com



From: Carlson Dietmeier, Jenna [mailto:Jenna.CarlsonDietmeier@state.sd.us]
Sent: Friday, September 1, 2017 1:41 PM
To: Dave Phillips <dave.phillips@apexcleanenergy.com>; Nelson, Kate <Kate.Nelson@state.sd.us>
Cc: Jennie Geiger <jennie.geiger@apexcleanenergy.com>
Subject: RE: Dakota Range Wind - CRMMP

Hi, Dave,

Kate and I have read over the CRMMP one last time and have two remaining comments.

- 1) In the unanticipated discoveries plan, when referring to the actions to be taken if human remains are discovered, I would clean up the language to more accurately reflect SDCL 34-27-25. This law states, "Any person who encounters or discovers human skeletal remains or what he believes may be human skeletal remains in or on the ground shall immediately cease any activity which may disturb those remains and shall report the presence and location of such human skeletal remains to an appropriate law enforcement officer." The plan's use of the phrasing of "If the site appears to be a crime scene warranting immediate action..." makes me a bit uncomfortable.
- 2) In the next portion of the unanticipated discoveries plan where it discusses cultural resources that are not human remains, SHPO would like to be notified of the discovery as well.

Thank you for taking our comments into consideration. If you have any further questions, please let us know. Otherwise, enjoy the upcoming long weekend!

Jenna

From: Dave Phillips [<mailto:dave.phillips@apexcleanenergy.com>]
Sent: Friday, September 01, 2017 1:31 PM
To: Nelson, Kate; Carlson Dietmeier, Jenna
Cc: Jennie Geiger
Subject: [EXT] Dakota Range Wind - CRMMP

Hello Kate and Jenna,

Thank you very much for your time and helpful input on the CRMMP for the Dakota Range Wind Project. Attached is a redline with the changes we discussed in today's call, as well as a clean version as a final PDF. If you could confirm this

revised version addresses all of your recommendations effectively, as it relates to minimizing potential risks to sensitive cultural resources on the site, we will consider it final and include it in our PUC permit application planned for submittal this fall.

Sincerely, Dave

DAVE PHILLIPS
Director, Environmental and Wildlife Permitting

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Jennie Geiger

From: Olson, Paige <Paige.Olson@state.sd.us>
Sent: Tuesday, November 07, 2017 9:30 AM
To: Jennie Geiger
Subject: SDCL Chapter 34-27-26
Attachments: 120_20171105_012810_001.pdf

Hi Jennie,

Good to talk with you this morning. I've attached a copy of SDCL Chapter 34-27-26, which speaks to funerary objects.

Thanks,
Paige

Paige Olson
Review and Compliance Coordinator
South Dakota State Historical Society
900 Governors Drive
Pierre, SD 57501
(605) 773-6004

Historical Society;

(4) "Tribal group," a federally recognized Indian tribe.

Source: SL 1990, ch 6, § 1; SL 1991, ch 281, § 1.

34-27-22. Buying, selling, or bartering human skeletal remains or funerary objects as felony. No person may knowingly buy, sell, or barter for profit human skeletal remains or associated funerary objects, previously buried within this state. A violation of this section is a Class 6 felony.

Source: SL 1990, ch 6, § 2.

34-27-23. Repealed by SL 1991, ch 281, § 2.

34-27-24. Commercial display of human skeletal remains or funerary objects as felony. No person may knowingly display funerary objects or human skeletal remains previously buried in South Dakota for profit or to aid and abet a commercial enterprise. A violation of this section is a Class 6 felony.

Source: SL 1990, ch 6, § 4.

34-27-25. Reporting discovery of human skeletal remains--Failure to report as misdemeanor. Any person who encounters or discovers human skeletal remains or what he believes may be human skeletal remains in or on the ground shall immediately cease any activity which may disturb those remains and shall report the presence and location of such human skeletal remains to an appropriate law enforcement officer. Willful failure to report the presence or discovery of human skeletal remains or what may be human skeletal remains within forty-eight hours to an appropriate law enforcement officer in the county in which the remains are found is a Class 2 misdemeanor.

Source: SL 1990, ch 6, § 5.

34-27-26. Disturbing human skeletal remains or funerary objects as felony. No person unless authorized by the state archaeologist may knowingly disturb or knowingly permit disturbance of human skeletal remains or funerary objects except a law enforcement officer or coroner or other official designated by law in performance of official duties. A violation of this section is a Class 6 felony.

Source: SL 1990, ch 6, § 6.

34-27-27. Repealed by SL 1991, ch 281, § 3.

34-27-28. Notification to landowner and coroner--Notification to state archaeologist and tribal officials--Time limits. If a law enforcement officer has reason to believe that the skeletal remains, reported pursuant to § 34-27-25, may be human, he shall promptly notify the landowner and the coroner. If the remains reported under § 34-27-25 are not associated with or suspected of association with any crime, the state archaeologist shall be notified within fifteen days. The state archaeologist shall thereupon follow the procedure set out in § 34-27-31, except that the skeletal remains shall be turned

Jennie Geiger

From: Olson, Paige <Paige.Olson@state.sd.us>
Sent: Monday, November 06, 2017 2:49 PM
To: Jennie Geiger; Carlson Dietmeier, Jenna; Nelson, Kate
Cc: Dave Phillips; Ryan Henning
Subject: RE: Follow Up on Dakota Range I Wind Project - Business Confidential

Thank you. I'll review the information and get back to you.

From: Jennie Geiger [mailto:jennie.geiger@apexcleanenergy.com]
Sent: Friday, November 03, 2017 1:30 PM
To: Olson, Paige; Carlson Dietmeier, Jenna; Nelson, Kate
Cc: Dave Phillips; Ryan Henning
Subject: RE: [EXT] Follow Up on Dakota Range I Wind Project - Business Confidential

Hi Paige –

Yes, the CRMMP was finalized in September in coordination with Jenna and Kate. I have attached the final document for your records – apologies for the initial oversight in copying you in the final correspondence.

Thanks,
Jennie

JENNIE GEIGER
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jennie.geiger@apexcleanenergy.com



From: Olson, Paige [mailto:Paige.Olson@state.sd.us]
Sent: Friday, November 03, 2017 12:08 PM
To: Jennie Geiger <jennie.geiger@apexcleanenergy.com>; Carlson Dietmeier, Jenna <Jenna.CarlsonDietmeier@state.sd.us>; Nelson, Kate <Kate.Nelson@state.sd.us>
Cc: Dave Phillips <dave.phillips@apexcleanenergy.com>; Ryan Henning <ryan.henning@apexcleanenergy.com>
Subject: RE: Follow Up on Dakota Range I Wind Project - Business Confidential

Hi Jennie,

Was the CRMMP finalized? If so, is it possible to get a copy?

Thank you,
Paige

Paige Olson
Review and Compliance Coordinator
South Dakota State Historical Society
900 Governors Drive
Pierre, SD 57501
(605) 773-6004

Jennie Geiger

From: Carlson Dietmeier, Jenna <Jenna.CarlsonDietmeier@state.sd.us>
Sent: Friday, November 03, 2017 11:17 AM
To: Jennie Geiger
Subject: RE: Follow Up on Dakota Range I Wind Project - Business Confidential

Thanks, Jennie,

I received your email and the PDF of the Level III survey areas.

Have a good weekend,
Jenna

From: Jennie Geiger [mailto:jennie.geiger@apexcleanenergy.com]
Sent: Friday, November 03, 2017 11:23 AM
To: Olson, Paige; Carlson Dietmeier, Jenna; Nelson, Kate
Cc: Dave Phillips; Ryan Henning
Subject: [EXT] Follow Up on Dakota Range I Wind Project - Business Confidential

Hi Paige/Jenna/Kate –

I wanted to give you an update on our Dakota Range I Wind Project in anticipation of upcoming field surveys and our PUC submittal next month.

The project footprint has been revised slightly to improve the efficiency of collection routes between turbines and the interconnection point. Therefore, Burns and McDonnell reviewed the new areas of planned disturbance and identified additional high probability areas for Level III Surveys. A revised map for incorporation into our CRMMP is attached.

QSI plans to begin Level III surveys Tuesday, November 7, weather permitting, in coordination with monitors from the Sisseton Wahpeton Oyate (SWO). The SWO will also review the lower probability areas, and we will work with them to avoid sensitive tribal resources based on their review and input. We hope to complete the surveys in advance of our PUC submittal; but weather, pace, and site density may make that impractical, requiring completion of surveys in spring, or at least after our PUC submittal in late November or early December.

As outlined in the CRMMP, Apex commits to design facilities to avoid all eligible, potentially eligible, and unevaluated cultural resources identified within the project area and we are working closely with the SWO to accommodate their concerns as well.

A Level III report will be provided to you as soon as possible, but we wanted to make sure you were comfortable commenting on our PUC application without the survey results in hand if the timing requires that, realizing that we intend to adhere to the CRMMP, avoid sensitive sites, and utilize the Unanticipated Discoveries Plan during construction. Please let us know if this is in line with your expectations so we can ensure that we are on the same page prior to the submittal of our PUC application.

If you would like to discuss this further, please let me know and I'll arrange a call or meeting asap.

Also, if you could please confirm receipt of this email given the size of the attachments I would appreciate it.

Thanks,
Jennie

JENNIE GEIGER
Environmental Permitting Manager

Apex Clean Energy, Inc.
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SWO

October 10, 2017 Meeting Summary and Correspondence

From: [Dave Phillips](#)
To: dianned@swo-nsn.gov; [James Whitted \(jamesw@swo-nsn.gov\)](mailto:jamesw@swo-nsn.gov)
Cc: [Jennie Geiger](#); jmswhitted@yahoo.com; [Gerry Bermel](#); [Lance Rom](#)
Subject: Apex - Dakota Range Wind I - meeting follow up
Date: Wednesday, October 18, 2017 9:48:52 AM
Attachments: [image002.png](#)

Hi Dianne and Jim, I wanted to follow up with you on our meeting last week discussing Dakota Range Wind project. I really enjoyed meeting you and seeing your facility in Indian Village.

The following is a summary of the important issues discussed for the Dakota Range (300MW project) that is under contract with Xcel. Please review and provide suggestions or input if I've misrepresented or overlooked anything important to you.

For the purposes of a clear communication record, this email is limited to this project only, and I will send a separate email on other topics/projects discussed in our meeting. The main intent with this email is to memorialize the key commitments made for this project and summarize the points of our discussion for the Project's record.

1. SWO agreed to provide one Tribal Monitor to join QSI in field surveys beginning in ~2weeks if staff are available. In ~30 days SWO may be able to provide 2 more surveyors and they may be able to work until weathered out. Snow cover = no surveys.
 - a. TCP surveys will be done in coordination with SWO on the entire facilities layout, including ag and low probability areas, and sensitive tribal resources will be avoided per SWO input. If there are situations that are problematic for avoidance, we will work together in good faith to resolve the siting issue.
 - b. SWO will contract directly with QSI, not Apex, for the planned field survey work.
2. SWO expects tribal cultural surveys of the entire layout, including ag lands. In many cases they can survey the ag lands quickly using a drone.
 - a. The single monitor available in ~2 weeks won't have access to the drone, so these areas may not get done this fall, but they will be completed spring and findings addressed via micro-siting of facilities.
 - b. If weather cooperates and staff availability allows, the surveys may continue into winter and possibly even be completed, but that is weather and staff dependent. Apex understands the need to be flexible.
3. SWO requested that a final cultural report to be a "joint report" with QSI and SWO, and that it include listing recommendations for all tribal resources SWO deems significant. This is inconsistent with state regulatory requirements and typical listing criteria, but is the tribes recommendation.
 - a. Given we'd like to submit the PUC permit late fall, we may need a work around on this reporting request for the purpose of the PUC permit application. I think we can have QSI prep a traditional Level III archeological report on the High Probability Areas consistent with the CRMMP, that could be amended in spring with tribal input.
 - b. Or we could do 2 stand-alone reports, one covering what gets completed this fall and one that covers what gets completed in spring.
 - c. Regardless of the reporting situation and eligibility determinations, it doesn't change Apex's commitment to avoid impacts to sensitive TCPs identified by the SWO.

4. SWO has requested a written agreement, modeled after what they've set up with NextEra. Apex has asked for a draft to review and will do so once provided by the SWO.
5. SWO has no concerns on visual impacts on Dakota Range.

Thank you both for your time and helpful input on this project to date, as well as your willingness to work with us on trying to staff field surveys this fall. I realize you are meeting with Gerry and Lance next week to discuss field surveys and contracting and look forward to hearing how that goes.

I look forward to any feedback you may have on this meeting summary. If you'd like to meet in person to discuss further, please let me know and we can get another meeting on the calendar; otherwise, it sounds like based on planned coordination between Lance, Gerry and you two on the field surveys, things are moving forward.

Sincerely, Dave

DAVE PHILLIPS
Director, Environmental and Wildlife Permitting

Apex Clean Energy, Inc.
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SWO

September 2, 2017 Correspondence Regarding CRMMP

Jennie Geiger

From: Mark Mauersberger
Sent: Saturday, September 2, 2017 6:22 AM
To: dianned@swo-nsn.gov; jmswhitted@yahoo.com
Cc: David Lau
Subject: Dakota Range SHPO Plan
Attachments: RE: Dakota Range Wind - CRMMP; DKR_ Cultural Resources Monitoring and Management Plan_2017-09-01_Final.pdf

Hello Dianne and Jim,

Please find the attached Cultural Resource Monitoring and Management Plan ("CRMMP") which was assembled by APEX.

This plan has been developed in close coordination with SHPO and incorporates your recommendations to "mark and avoid" important sites.

The Unanticipated Discovery Plan, included as Attachment 2 of the CRMMP, sets the stage for further coordination (in the event additional sites are found). The plan specifies "low risk to sensitive" cultural resources.

We will submit this CRMMP, with our PUC permit application this fall, and wanted to make certain you have had the opportunity to review the document.

Please contact me, if you have questions or need additional information.

We look forward to working with you on the project.

Regards,
Mark

Mark Mauersberger
Senior Development Manager

Apex Clean Energy, Inc.
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SDDENR

July 2017 Correspondence



July 7, 2017

Mr. Kent Woodmansey
Natural Resources Engineering Director
South Dakota Department of Environment & Natural Resources
523 E. Capitol Ave.
Pierre, SD 57501

Re: Dakota Range Wind Energy Facility
Codington and Grant Counties, South Dakota

Dear Mr. Woodmansey:

Apex Clean Energy Holdings, LLC (Apex) is proposing to construct the Dakota Range Wind Energy Facility in Codington and Grant Counties, South Dakota. The project would be situated on approximately 40,000 acres (Figure 1) and would have a total capacity of up to 300 megawatts (MW). Project components would include:

- Up to 93 wind turbine generators
- Access roads to each turbine
- Underground 34.5-kilovolt (kV) electrical collector lines connecting the turbines to the collector substation
- Underground fiber-optic cable for turbine communications co-located with the collector lines
- A 34.5 to 345-kV collector substation
- A 345-kV interconnection transmission line connecting the collector substation and the interconnection switching station
- A 345-kV interconnection switching station connecting to the Big Stone South to Ellendale 345-kV line
- An operations and maintenance (O&M) facility
- Up to 5 permanent meteorological (met) towers

Apex will be applying to the South Dakota Public Utilities Commission (SDPUC) for a Facility Permit to construct the proposed project. At this time, Apex is requesting input from your agency regarding environmental resources in the project area that should be considered in the SDPUC application. Please send your comments to me at:

jbell@burnsmcd.com

-or-

Jennifer Bell
Burns & McDonnell
9785 Maroon Circle, Suite 400
Centennial, CO 80112



Mr. Kent Woodmansey
South Dakota Department of Environment & Natural Resources
July 7, 2017
Page 2

If you have any questions regarding the project or need additional information, please contact me at (303) 474-2229. Thank you for your time and assistance in providing this information.

Sincerely,

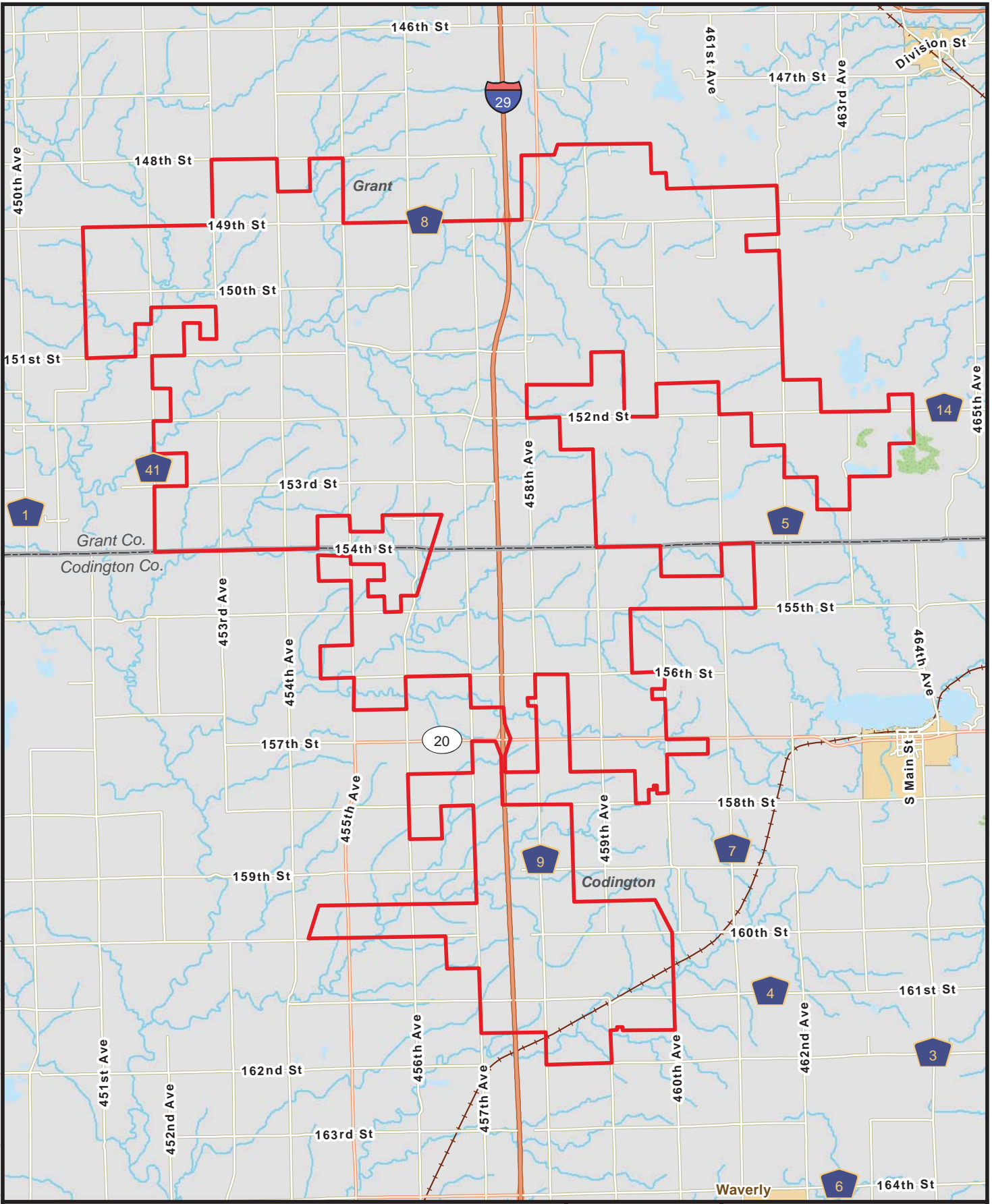
A handwritten signature in black ink, appearing to read "Jennifer Bell".

Jennifer Bell
Senior Environmental Scientist

Attachment

cc: Nate Pedder, Apex Clean Energy, Inc.

Path: Z:\Clients\ENS\Apex\CleanEnr\99035_DakotaRange\Studies\Geospatial\DataFiles\ArcDocs\99035_DakotaRange\Fig1_ProjectArea.mxd kboatright 6/5/2017
COPYRIGHT © 2017 BURNS & McDONNELL ENGINEERING COMPANY, INC.



- Project Boundary
- County Boundary

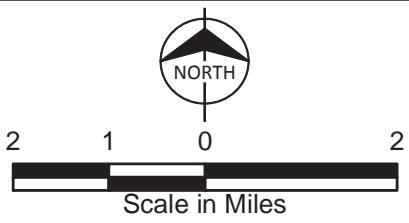


Figure 1
Project Area
Dakota Range
Wind Energy Facility



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

July 26, 2017

Jennifer Bell
Burns & McDonnell
9785 Maroon Circle, Suite 400
Centennial, CO 80112

Dear Ms. Bell:

The South Dakota Department of Environment and Natural Resources (DENR) reviewed the request from Apex Clean Energy Holdings, LLC to construct the proposed Dakota Range Wind Energy Facility in Codington and Grant Counties. Based on the general information provided, the DENR has the following comments:

1. The department does not anticipate any adverse impacts to drinking waters of the state. The Drinking Water Program has no objections to this project.
2. The department does not anticipate any adverse impacts to the air quality of the state. The Air Quality Program has no objections to this project.
3. At a minimum and regardless of project size, appropriate erosion and sediment control measures must be installed to control the discharge of pollutants from the construction site. Any construction activity that disturbs an area of one or more acres of land must have authorization under the General Permit for Storm Water Discharges Associated with Construction Activities. Contact the Department of Environment and Natural Resources for additional information or guidance at 1-800-SDSTORM (800-737-8676) or <http://denr.sd.gov/des/sw/StormWaterandConstruction.aspx>.
4. A Surface Water Discharge (SWD) permit may be required if any construction dewatering should occur. Please contact this office for more information.
5. Impacts to rivers, tributaries, and wetlands should be avoided or minimized if possible. Surface waters are considered waters of the state and are protected under the South Dakota Surface Water Quality Standards.

Within the proposed project area, the Big Sioux River is classified by the South Dakota Surface Water Quality Standards and Uses Assigned to Streams for the following beneficial uses:

- (5) Warmwater semipermanent fish life propagation waters;

- (8) Limited contact recreation waters;
- (9) Fish and wildlife propagation, recreation, and stock watering waters; and
- (10) Irrigation waters.

An unnamed tributary (Grant County) has the following beneficial uses:

- (6) Warmwater marginal fish life propagation waters;
- (8) Limited contact recreation waters;
- (9) Fish and wildlife propagation, recreation, and stock watering waters; and
- (10) Irrigation waters.

Because of these beneficial uses, special construction measures may have to be taken to ensure that the 30-day average total suspended solids standards of 90 and 150 mg/L respectively are not violated.

The discharge of pollutants from any source, including indiscriminate use of fill material, may not cause destruction or impairment except where authorized under Section 404 of the Federal Water Pollution Control Act. Please contact the U.S. Army Corps of Engineers concerning this permit.

- 6. The Waste Management Program does not anticipate any adverse impacts. All waste material must be managed according to our solid waste requirements. Please contact the Waste Management Program if you have any questions on asbestos or solid waste disposal requirements at (605) 773-3153.
- 7. DENR's Ground Water Quality Program reviewed the above-referenced project for potential impacts to ground water quality and based on the information submitted does not anticipate the project will adversely impact ground water quality.

There have been numerous petroleum and other chemical releases throughout the state. Of the releases reported to DENR, we have identified several releases in the vicinity of your projects. A list of releases in or near your project areas is enclosed in Table 1. However locational information provided to us regarding releases is sometimes inaccurate or incomplete. If you would like to do more research, additional information on reported releases in South Dakota is available at the following website: <http://arccgis.sd.gov/server/denr/spillviewer/>.

In the event that contamination is encountered during construction activities or caused by the construction work, Apex Clean Energy Holdings, LLC, or its designated representative, must report the contamination to DENR at 605-773-3296. Any contaminated soil encountered or caused by the construction activities should be temporarily stockpiled and sampled to determine disposal requirements.

If you have any questions concerning these comments, please contact me at (605) 773-3351.

Sincerely,

A handwritten signature in cursive script that reads "Shannon Minerich". The signature is written in dark ink and is positioned above the typed name and title.

Shannon Minerich
Environmental Scientist
Surface Water Quality Program

cc: Mark Mayer, Drinking Water Program
Rick Boddicker, Air Quality Program
Vonni Kallemeyn, Waste Management Program
Ryan Fitzpatrick, Ground Water Quality Program

Table 1: Release Cases Near the Project Area(s) as of 07/25/2017

DENR ID	Site Name	City	County	Street	Material	Status	Latitude	Longitude
2008.076	Westcon Fertilizer Spill	Marvin	Grant	454th Ave. & 148th St	Dry Fertilizer	C	45.239014	-97.123489
2001328.00	Clean ATP - Zellner Property	Summit	Grant	45346 149th St		C	45.225040	-97.135515
2002.047	Lime Dumping	Milbank	Grant	I-29 Exit 201	Lime	C	45.224136	-97.051298
92.293	Southway Transport Limited Transport Event	Twin Brooks	Grant	I-29 MM 200	Diesel	C	45.218803	-97.051560
82.022	Regan Spraying - Aircraft Accident	Marvin	Grant	20 mi N & 1.25 mi W of Watertown	Parathion	C	45.201700	-97.036273
2004.085	Agrichem Disposal - Kowalski Property	South Shore	Grant	.25 miles N of 15282 463rd Ave	Unknown	C	45.170760	-96.944803
97.265	Transport Event	Marvin	Grant	Old Hwy 81, 2 miles S of Hwy 8	Diesel	C	45.192716	-97.102276
2002.295	ATP - Former Al's Service	Summit	Grant	455 Ave & 152nd St	Petroleum	NFA	45.181016	-97.102609
2002.294	ATP - Wallace Redlin Property	Summit	Grant	45496 152nd St	Petroleum	NFA	45.181172	-97.104015
95.161	Waste oil on roadway	Marvin	Grant	Old Hwy 81: 2 m N of County Line	Waste Oil	C	45.180881	-97.102781
93.308	Transport Event	Marvin	Grant	21 N & 1 E of Watertown	Diesel	C	45.180975	-97.072890
97.003	Transport Event Along I-29	Summit	Grant	I-29 MM 197	Diesel	C	45.165419	-97.056473
2002012.00	Clean ATP - Zubke Farm	Waverly	Codington	45785 159th Street		C	45.078308	-97.051717
99.125	Farm Tank - Roger Mohr	Waverly	Codington	16146 459th Avenue	Diesel	NFA	45.043053	-97.020934
2001.934	ATP - Richter Farm	Ortley	Grant	14785 453rd Avenue	Petroleum	C	45.240542	-97.145483
98.272	Truck Accident	South Shore	Codington	I-29 South Shore Exit	Diesel	C	45.107874	-97.056382

DENR ID = DENR Case Number

Status: C = Closed, NFA = No Further Action, O/M = Open/Monitoring, I=Inactive