

**Appendix M**  
**Agency Correspondence**

**Agency Consultation Letters Submitted**

<b>Agency</b>	<b>Date Submitted</b>	<b>Response Date</b>
U.S. Department of Agriculture Natural Resource Conservation Service	12/26/2018	Pending
South Dakota Department of Transportation Office of Project Development	12/26/2018	Pending
South Dakota Department of Environment and Natural Resources Division of Environmental Services	12/26/2018	1/28/2019
U.S. Army Corps of Engineers State Regulatory Program Manager Pierre Regulatory Office	12/26/2018	1/16/2019
U.S. Fish and Wildlife Service Huron Wetland Management District	12/26/2018	Pending

December 26, 2018

Mr. Adam Mathiowetz  
South Dakota Department of Environment and Natural Resources  
Division of Environmental Services  
523 East Capitol Avenue  
Pierre, SD 57501-3182

**Subject: Triple H Wind Project, LLC Energy Facility Permit Application for the Proposed 250 MW Wind Project in Hyde County, South Dakota**

Dear Mr. Mathiowetz:

Triple H Wind Project, LLC (Triple H, Project), a subsidiary of ENGIE North America, Inc. (ENGIE), is currently preparing to submit an application to the South Dakota Public Utilities Commission for an Energy Facility Permit, in compliance with Administrative Rules of South Dakota 20:10:22 and South Dakota Codified Law Ch. 49-41B. The wind energy generating facility will have an aggregate nameplate capacity of 250 megawatts and is being permitted on the state and local level.

Triple H is located entirely within Hyde County, South Dakota, in the townships of Eagle, Chapelle, Highmore, and Holabird as shown in Table 1 and the attached Figure 1. The Project will cover approximately 27,226 acres and will consist of up to 92 wind turbines, electric collector lines, a central collector substation, O&M facility, access roads connecting to each turbine, meteorological towers, and a supervisory control and data acquisition (SCADA) system.

**Table 1. Project Location**

<b>County Name</b>	<b>Township Name</b>	<b>Township</b>	<b>Range</b>	<b>Sections</b>
Hyde	Eagle	111N	72W	1-12, 18
Hyde	Chapelle	111N	73W	1, 2, 10-17, 20-23
Hyde	Highmore	112N	72W	19, 20, 28-35
Hyde	Holabird	112N	73W	24-29, 31-36

The purpose of this letter is to introduce the Project and obtain input from the South Dakota Department of Environment and Natural Resources regarding any potential concerns or issues that may exist within the Project Area listed above that would influence a decision regarding the use of the land. The Project would be designed to avoid resources such as wetlands, surface waters, sensitive habitats, protected species and historic or cultural areas to the extent possible. Potential impacts to soil and surface water resources would be minimized or avoided by using erosion and sedimentation control best management practices during construction.

If you require any further information such as shapefiles or other maps, please do not hesitate to contact us. Any resulting information will be used to help guide Project development in a manner that identifies and avoids impacts to sensitive resources where practicable.

If you have any questions regarding the information presented in this letter, please contact Casey Willis at ENGIE North America, 805-569-6185 or at [Casey.Willis@engie.com](mailto:Casey.Willis@engie.com). Thank you for your assistance regarding the Project.

Respectfully submitted,

**Casey Willis**

3760 State Street, Suite 200  
Santa Barbara, CA 93105

P: 805-569-6185

E: [Casey.Willis@engie.com](mailto:Casey.Willis@engie.com)

Enclosure:

Figure 1 - Project Location

cc:

Mark Rothfork – Tetra Tech

Leslie Knapp – Tetra Tech

**From:** Christina White

**Sent:** Friday, October 28, 2016 11:18 AM

**To:** 'osd.dod-siting-clearinghouse@mail.mil' <osd.dod-siting-clearinghouse@mail.mil>

**Subject:** Triple H Wind Project: Request for Review

To Whom It May Concern:

Enclosed with this email is the information associated with our Triple H Wind Project that we would like to submit to the Clearinghouse for informal review. Please note all of the information included below and attached to this email is **Confidential and Proprietary**.

- Contact Information - Christina White, [cwhite@infinityrenewables.com](mailto:cwhite@infinityrenewables.com), 310-924-1451
- Company/Vendor/Developer – Triple H Wind Project, LLC
- Project Point of Contact First and Last Name - Christina White
- Address, City, State and Zip Code - 3760 State Street, Suite 200, Santa Barbara, CA 93105
- Phone Number, Fax and E-mail – 310-924-1451. Fax 805-569-6190. [cwhite@infinityrenewables.com](mailto:cwhite@infinityrenewables.com)
- Project Name, Nearest City or County and State. Triple H Wind Project. Hughes and Hyde Counties, South Dakota.
- The geographic location of the project -- including latitude and longitude. Please include Lat/Longs in DMS (Degrees, Minutes, Seconds) for each turbine tower in Excel format and Include a map of your project in PowerPoint or Adobe pdf format, if possible. Attached.
- The nature of the project (i.e., wind, solar, etc.) and the following information:
  - *Number of structures.* Up to 109 wind turbines.
  - *Wind Turbine:*
    - Turbine Type GE 2.3-116
    - Hub Height 80 meters (262 feet)
    - Blade Tip Height 138 meters (453 feet)
    - Turbine Farm Layout - See attached map

Please confirm the receipt of this submittal.

Thanks,  
Christina

**Christina White**

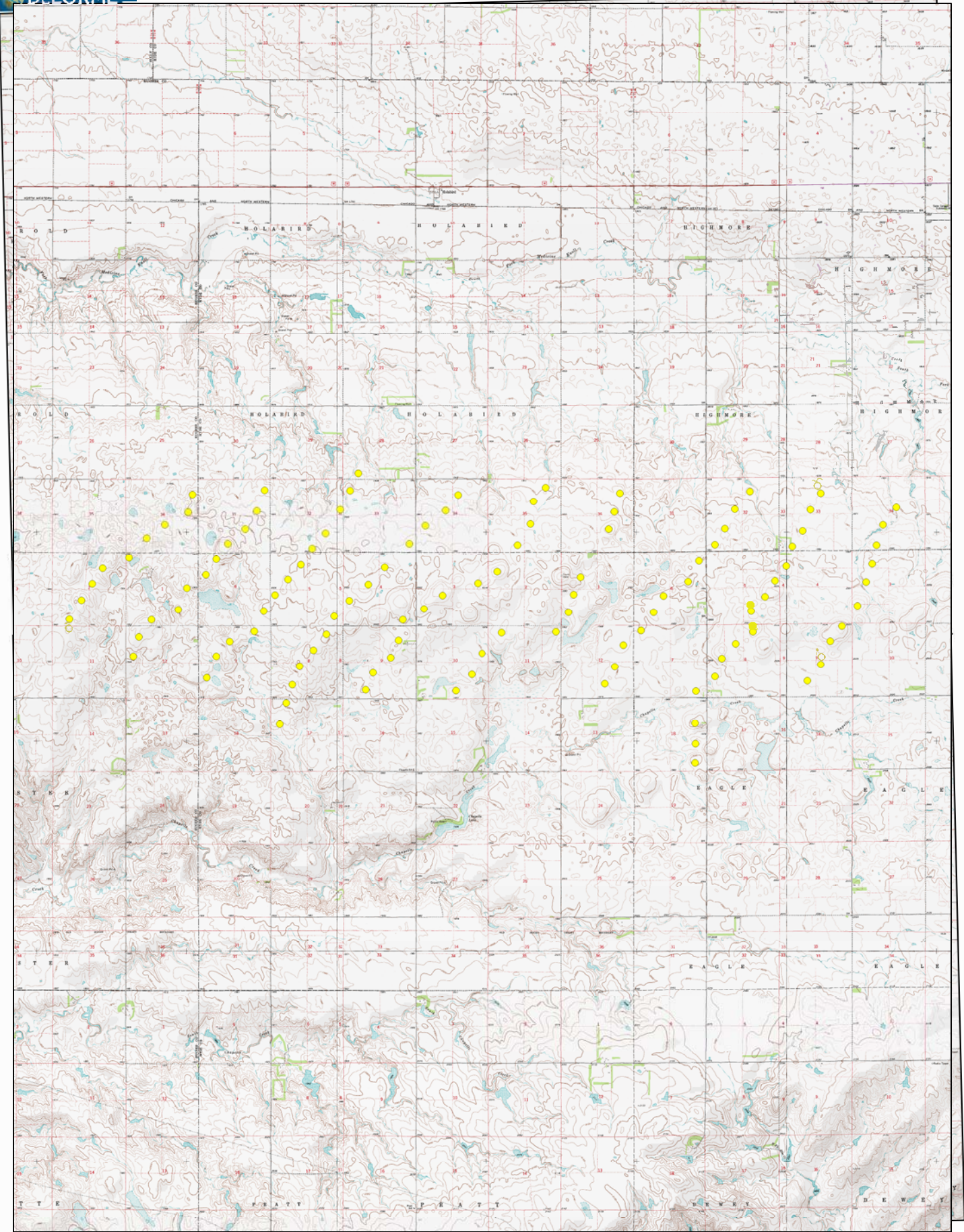
Infinity Renewables

3760 State Street, Suite 200 | Santa Barbara, CA 93105

O 805-456-5158 | M 310-924-1451

TurbID	Latitude	Longitude	Latitude			Longitude		
			Deg	Min	Sec	Deg	Min	Sec
1	44.44102	-99.6997	44	26	27.67	99	41	59.05
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4	44.45109	-99.6904	44	27	3.93	99	41	25.55
5	44.45319	-99.6831	44	27	11.5	99	40	59.12
6	44.45711	-99.6782	44	27	25.6	99	40	41.53
7	44.45974	-99.6732	44	27	35.05	99	40	23.43
8	44.46228	-99.6667	44	27	44.2	99	40	0.16
9	44.46577	-99.6656	44	27	56.78	99	39	56.03
10	44.43365	-99.6819	44	26	1.15	99	40	54.86
11	44.43751	-99.6804	44	26	15.02	99	40	49.41
12	44.44088	-99.6769	44	26	27.17	99	40	36.74
13	44.44285	-99.6694	44	26	34.25	99	40	9.86
14	44.44720	-99.6671	44	26	49.92	99	40	1.5
15	44.44984	-99.6618	44	26	59.42	99	39	42.45
16	44.45289	-99.6589	44	27	10.4	99	39	31.91
17	44.45599	-99.6557	44	27	21.57	99	39	20.35
18	44.45894	-99.6508	44	27	32.18	99	39	3.05
19	44.46252	-99.6476	44	27	45.08	99	38	51.45
20	44.46658	-99.6454	44	27	59.7	99	38	43.55
21	44.42935	-99.6615	44	25	45.64	99	39	41.45
22	44.43361	-99.6589	44	26	0.99	99	39	32.18
23	44.43654	-99.6552	44	26	11.55	99	39	18.63
24	44.43859	-99.6484	44	26	18.91	99	38	54.24
25	44.44266	-99.6457	44	26	33.57	99	38	44.57
26	44.44578	-99.6425	44	26	44.81	99	38	33.17
27	44.44886	-99.6390	44	26	55.88	99	38	20.33
28	44.45184	-99.6353	44	27	6.62	99	38	7.25
29	44.45505	-99.6323	44	27	18.19	99	37	56.1
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47	44.46568	-99.5918	44	27	56.44	99	35	30.34
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49	44.43041	-99.6153	44	25	49.49	99	36	55.18
50	44.43335	-99.6105	44	26	0.07	99	36	37.78
51	44.43685	-99.6083	44	26	12.66	99	36	29.99
52	44.44091	-99.6071	44	26	27.29	99	36	25.58
53	44.44309	-99.6012	44	26	35.14	99	36	4.31
54	44.44575	-99.5961	44	26	44.69	99	35	45.93
55	44.44814	-99.5863	44	26	53.3	99	35	10.51
56	44.45041	-99.5807	44	27	1.47	99	34	50.67
57	44.45574	-99.5751	44	27	20.66	99	34	30.23
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59	44.46435	-99.5706	44	27	51.68	99	34	14.21
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61	44.42681	-99.5924	44	25	36.52	99	35	32.53
62	44.43003	-99.5879	44	25	48.12	99	35	16.33
63	44.43420	-99.5850	44	26	3.13	99	35	6.17
64	44.43834	-99.5796	44	26	18.01	99	34	46.41
65	44.43851	-99.5644	44	26	18.63	99	33	51.71
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67	44.44584	-99.5594	44	26	45.04	99	33	33.97
68	44.44930	-99.5576	44	26	57.49	99	33	27.3
69	44.45891	-99.5497	44	27	32.07	99	32	58.95
70	44.46234	-99.5482	44	27	44.41	99	32	53.49
71	44.46605	-99.5466	44	27	57.77	99	32	47.82
72	44.42817	-99.5508	44	25	41.4	99	33	2.9
73	44.43162	-99.5480	44	25	53.82	99	32	52.94
74	44.43588	-99.5457	44	26	9.16	99	32	44.45
75	44.43881	-99.5407	44	26	19.73	99	32	26.56
76	44.44236	-99.5373	44	26	32.51	99	32	14.2
77	44.44562	-99.5345	44	26	44.24	99	32	4.23
78	44.44847	-99.5277	44	26	54.49	99	31	39.61
79	44.45254	-99.5247	44	27	9.15	99	31	28.94
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82	44.46282	-99.5147	44	27	46.15	99	30	52.82
83	44.46634	-99.5105	44	27	58.83	99	30	37.96
84	44.41237	-99.5258	44	24	44.53	99	31	32.73
85	44.41620	-99.5256	44	24	58.33	99	31	32.19
86	44.42020	-99.5258	44	25	12.71	99	31	32.84
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89	44.43317	-99.5184	44	25	59.41	99	31	6.09
90	44.43612	-99.5145	44	26	10.03	99	30	52.21
91	44.43855	-99.5097	44	26	18.77	99	30	35.01
92	44.44261	-99.5102	44	26	33.41	99	30	36.67
93	44.44544	-99.5063	44	26	43.59	99	30	22.65
94	44.44860	-99.5036	44	26	54.98	99	30	12.95
95	44.45158	-99.5004	44	27	5.69	99	30	1.43
96	44.45545	-99.4987	44	27	19.61	99	29	55.4
97	44.45855	-99.4959	44	27	30.8	99	29	45.31
98	44.46279	-99.4938	44	27	46.03	99	29	37.57
99	44.46601	-99.4908	44	27	57.63	99	29	26.91
100	44.42873	-99.4946	44	25	43.43	99	29	40.51
101	44.43200	-99.4909	44	25	55.2	99	29	27.18
102	44.43662	-99.4883	44	26	11.82	99	29	17.77
103	44.43966	-99.4850	44	26	22.77	99	29	6.05
104	44.44367	-99.4807	44	26	37.21	99	28	50.47
105	44.44838	-99.4783	44	26	54.17	99	28	41.87
106	44.45200	-99.4766	44	27	7.18	99	28	35.83
107	44.45577	-99.4754	44	27	20.77	99	28	31.4
108	44.45980	-99.4736	44	27	35.29	99	28	25.05
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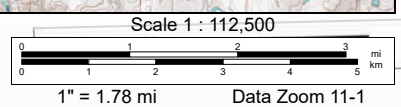
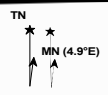




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ENERGY,  
INSTALLATIONS  
AND ENVIRONMENT

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

3400 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3400

December 2, 2016

Christina White  
Infinity Renewable  
3760 State Street, Suite 200  
Santa Barbara 93105  
cwhite@infinityrenewables.com

Dear Ms. White,

As requested, the Department of Defense (DoD) Siting Clearinghouse coordinated within DoD an informal review of your company's proposed project. The results of our informal review indicated that the 109 turbine Triple H Wind Project located in Hughes and Hyde Counties, South Dakota, as proposed, will potentially impact military operations conducted in this area.

I request that you contact Fredrick Shepherd, Chief of the NORAD Radar Interference Branch, at 719-556-3260, to discuss this proposed project. It is my hope that your continued cooperation will help us preserve the operational, training, and testing capabilities of our nation's Armed Forces.

Please note that this informal review by the DoD Siting Clearinghouse does not constitute an action under 49 United States Code Section 44718 and that neither the DoD nor the Secretary of Transportation are bound by the conclusion arrived at under this informal review. Please contact me at [steven.j.sample4.civ@mail.mil](mailto:steven.j.sample4.civ@mail.mil) or at 703-571-0076 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "SJS", written over a light blue horizontal line.

Steven J. Sample  
Chief, Mission Evaluation Branch  
DoD Siting Clearinghouse



**From:** [Shepherd, Frederick L III CIV NORAD-USNC NJ3 \(US\)](#)  
**To:** [Casey Willis](#)  
**Cc:** [Christina White](#); [Sample, Steven J CIV OSD OUSD ATL \(US\)](#); [NORAD-USNC Peterson AFB NJ3 Mailbox NORAD J36R OMB](#)  
**Subject:** RE: (U) DOD Clearinghouse Responses: Triple H and North Bend, SD  
**Date:** Friday, December 09, 2016 12:17:04 PM  
**Attachments:** [IR Letter Triple H Wind, Hugh and Hyde Counties, SD 12022016.pdf](#)  
[IR Leter North Bend Wind, Hughes and Hyde Counties, SD 12022016.pdf](#)  
[IR Triple H Wind Hughes Hyde Counties SD due 15Nov16.xls](#)  
[IR North Bend Wind Hughes Hyde Counties SD due 15Nov16.xls](#)

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Classification: UNCLASSIFIED

Casey

Upon further/detailed analysis, NORAD has determined that the attached projects would have a minor but acceptable impact on our missions.

As such, NORAD does not have concerns at this time.

For reference, the attached xcel spreadsheets are the project details we assessed.

As always, we will again assess these projects formally if/when they are filed with the FAA via OEAAA.

Thank you for your outreach in the early planning stages.

v/r  
Stitch

Stitch Shepherd, DAFC  
Chief, Radar Interference Branch (NJ36R)  
HQ NORAD J3  
250 Vandenberg St. Ste B016  
Peterson AFB, CO 80914-3817  
DSN 834-3260 comm 719-556-3260

**From:** Casey Willis [mailto:[cwillis@infinitywind.com](mailto:cwillis@infinitywind.com)]  
**Sent:** Thursday, December 08, 2016 12:28 PM  
**To:** Shepherd, Frederick L III CIV NORAD-USNC NJ3 (US)  
**Cc:** Christina White; Sample, Steven J CIV OSD OUSD ATL (US)  
**Subject:** [Non-DoD Source] RE: (U) DOD Clearinghouse Responses

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

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Thanks Stitch. The exact height is still unclear as we have not selected turbine models yet, but it's probably safe to assume up to 498 feet.

Casey

Classification: UNCLASSIFIED

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**From:** Shepherd, Frederick L III CIV NORAD-USNC NJ3 (US) [Caution-mailto:frederick.l.shepherd.civ@mail.mil]  
**Sent:** Thursday, December 08, 2016 11:28 AM  
**To:** Casey Willis <cwillis@infinitywind.com>  
**Cc:** Christina White <cwhite@infinitywind.com>; Sample, Steven J CIV OSD OUSD ATL (US) <steven.j.sample4.civ@mail.mil>  
**Subject:** RE: (U) DOD Clearinghouse Responses

Classification: UNCLASSIFIED

Casey

Thank you for the notification below....we will conduct additional (more detailed) analysis and advise of our results....hopefully by close of business this week, but for sure no later than 21 December.

To confirm, for Triple H we're showing 109 turbines (486') and North Bend is 80 turbines (486').....is that still accurate?

Thanks, Stitch

Stitch Shepherd, DAFC  
Chief, Radar Interference Branch (NJ36R)  
HQ NORAD J3  
250 Vandenberg St. Ste B016  
Peterson AFB, CO 80914-3817  
DSN 834-3260 comm 719-556-3260

Classification: UNCLASSIFIED

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**From:** Casey Willis [Caution-mailto:cwillis@infinitywind.com < Caution-mailto:cwillis@infinitywind.com > ]  
**Sent:** Thursday, December 08, 2016 10:26 AM  
**To:** Shepherd, Frederick L III CIV NORAD-USNC NJ3 (US)  
**Cc:** Christina White  
**Subject:** [Non-DoD Source] DOD Clearinghouse Responses

Stitch,

We received responses via the DOD Clearinghouse related to two projects that we have in South Dakota that NORAD may have some level of interest in. Both letters are attached. I've also attached rough boundary maps for the two locations. Our Triple H project is located just south of the town of Highmore in Hyde and Hughes Counties. Our North Bend Project is located just north of the Crow Creek Reservation in Hyde County. I'm aware of the fact that NORAD has some decommissioned and operational missile silos in the Dakotas from past experiences, but I'm not sure if they are located anywhere near these facilities.

In any event, I wanted to check in with you to see if you can provide any feedback related to the concerns that you may have with these locations.

Thanks,  
Casey

**Casey Willis**  
**Senior Project Manager**

Infinity Renewables  
3760 State Street, Suite 200 | Santa Barbara, CA 93105  
O 805.569.6185 | M 805.701.1979 | F 805.569.6190

**From:** Christina White  
**To:** ["edavison@ntia.doc.gov"](mailto:edavison@ntia.doc.gov)  
**Cc:** [JHenry@ntia.doc.gov](mailto:JHenry@ntia.doc.gov)  
**Subject:** Triple H Wind Project: NTIA Review Request  
**Date:** Monday, April 18, 2016 4:41:09 PM

---

Hi Edward and Joyce,

I would like to submit our Triple H Wind Project for NTIA review. Attached, please find detailed information about the project including turbine location.

Thank you, in advance, for your time.

**Christina White**

Infinity Renewables  
3760 State Street, Suite 200 | Santa Barbara, CA 93105  
O 805-456-5158 | M 310-924-1451



**From:** [Henry, Joyce](#)  
**To:** [Christina White](#)  
**Subject:** \*\*WindMill Response Letter\*\* Triple H Project: Hyde & Hughes Counties, SD  
**Date:** Friday, June 17, 2016 8:26:23 AM  
**Attachments:** [Triple H Project R.pdf](#)

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Dear Christina:

Please see attached the NTIA Response Letter for the Triple H Wind Project, located in Hyde and Hughes Counties, South Dakota.

After a 45+ day period of review, we received responses from **DOA (Agriculture), DOC (Commerce), DOJ (Justice) and DON (Navy)** stating **No Harmful Interference Anticipated (NHIA)**.

In the event that an agency has expressed concerns, we encourage you to work with the agency representatives directly to resolve all issues. If issues cannot be resolved, you may contact our office via phone or e-mail for resolution.

*Joyce C. Henry*  
*DOC/NTIA/OSM HQ*  
*Admin Assistant*  
*202-482-2215*  
*[jhenry@ntia.doc.gov](mailto:jhenry@ntia.doc.gov)*





**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Telecommunications and**  
**Information Administration**  
Washington, D.C. 20230

JUN 17 2016

Ms. Christina White  
INFINITY RENEWABLES  
3760 State Street, Suite 200  
Santa Barbara, CA 93105

Re: Triple H Project: Hyde and Hughes Counties, SD

Dear Ms. White:

In response to your request on April 18, 2016, the National Telecommunications and Information Administration provided to the federal agencies represented in the Interdepartmental Radio Advisory Committee (IRAC) the plans for the Triple H Wind Project, located in Hyde and Hughes Counties, South Dakota.

After a 45+ day period of review, no federal agencies identified concerns regarding blockage of their radio frequency transmissions.

While the IRAC agencies did not identify any concerns regarding radio frequency blockage, this does not eliminate the need for the wind energy facilities to meet any other requirements specified by law related to these agencies. For example, this review by the IRAC does not eliminate any need that may exist to coordinate with the Federal Aviation Administration concerning flight obstruction.

Thank you, again, for the opportunity to review this proposal.

Sincerely,

Peter A. Tenhula  
Deputy Associate Administrator  
Office of Spectrum Management

**From:** [WILLIS Casey \(ENGIE North America\)](#)  
**To:** [WILLIS Casey \(ENGIE North America\)](#)  
**Subject:** FW: Question on USFWS Grassland Easements  
**Date:** Friday, December 14, 2018 7:57:27 AM  
**Attachments:** [image002.png](#)  
[image001.png](#)

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**From:** Williams, Deborah [[mailto:deborah\\_williams@fws.gov](mailto:deborah_williams@fws.gov)]

**Sent:** Monday, February 05, 2018 12:00 PM

**To:** Casey Willis <[CWillis@infinityrenewables.com](mailto:CWillis@infinityrenewables.com)>

**Cc:** Natalie Gates <[natalie\\_gates@fws.gov](mailto:natalie_gates@fws.gov)>

**Subject:** Re: FW: Question on USFWS Grassland Easements

Casey -

The language in your example easement is very thorough and in the case where that easement supersedes our easement(s) we are subject to the rights your company purchased. In other words - no authorization from the Service is needed as it relates to the easement. We would gladly still consult if you were looking to minimize impacts and any agreement on an easement does not address or remove the potential need to consult with our Ecological Services office as it relates to federal trust species.

As far as the other situation you mention - where your companies wind easement was recorded following our wet easement - our wet easement prohibits draining, burning and filling of protected wetland basins. The maps I provided you give the approximate size shape and location of the protected basins but are NOT meant to be digitized for GIS. So yes you are correct that if you avoid impacts to protected basins no authorization is needed from the Service. But I caution you to not try to "micro site" around the wetland basins based off those Exhibit A maps as they do not depict a finite wetland boundary. And - again I will gladly review site plans to ensure that there are no anticipated wetland impacts.

Thanks for being so thorough and call with any questions. I am in the office all this week but out most of the next two weeks then back in again the week of Feb 26.

Deb

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Deborah Williams  
Project Leader/Wildlife Refuge Manager  
Huron Wetland Management District  
Phone: 605-352-5894, ext 111  
Cell: 605-350-0712  
Fax: 605-352-6709

On Fri, Feb 2, 2018 at 11:11 AM, Casey Willis <[CWillis@infinityrenewables.com](mailto:CWillis@infinityrenewables.com)> wrote:

Hi Deborah,  
Just wanted to get your thoughts on this. Please let me know.  
Casey

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**From:** Casey Willis

**Sent:** Friday, January 26, 2018 8:57 AM

**To:** 'Williams, Deborah' <[deborah\\_williams@fws.gov](mailto:deborah_williams@fws.gov)>

**Cc:** Natalie Gates <natalie\_gates@fws.gov>

**Subject:** RE: Question on USFWS Grassland Easements

Hi Deborah,

Thanks for getting back to me. I can tell you that all of our easements are identical. We don't deviate at all as that just causes a host of problems. I've attached a memorandum of easement for this very circumstance. We signed an easement with the Rittel family and I've attached the recorded memorandum. The FWS executed one or more grassland and wetland easements after our easement was already in place. Our lease gives us the exclusive right to development anywhere on the tract in question and also includes supporting infrastructure. This is pretty well spelled out on page two under the purpose and scope in the memorandum of easement. I can't send the fully executed version for obvious reasons, but I've clipped out the section from that easement that further spells this issue out (see below).

With regard to the wetland easements, from the call that you and I had, the concern was not necessarily related to wetland easement itself, it was related to the actual wetland feature. If we avoid those delineated wetland features completely, so as to avoid a FWS permitting trigger. With regard to grassland easements that were executed by the FWS prior to our wind easements, in this circumstance we will be avoiding all impacts completely so as to avoid a FWS permit trigger, including the NEPA process.

It's this separate circumstance that I needed to get clarity from you where we have an executed wind easement in place and then the FWS executes a grassland easement after us and thus in an inferior position from a real easement perspective.

Take a look at the rights conveyed from our easement and please confirm that you agree that in the circumstance, where Infinity has an easement that's executed/recorded prior to the FWS, no further action is required related to the project.

Thanks,

Casey

### **3. Use of Owner's Property by Developer.**

**3.1 Permitted Uses.** By this Easement, Owner hereby grants to Developer an exclusive easement, *in gross*, for wind resource assessment and analysis, wind energy conversion, for the collection and transmission of electric power, and for related and incidental purposes and activities (collectively, "**Operations**") during the Easement Term (subject to the

limitation on Developer's use of Owner's Property during the Development Period as provided in Section 2.1 above), including, without limitation:

(a) without limiting the generality of the foregoing, during all periods comprising the Easement Term, conducting studies of wind speed, wind direction, and other meteorological data, geotechnical studies, surveying, erection, operation, and maintenance of data collection equipment, ingress to and egress from Owner's Property by means of any existing roads and lanes thereon, and by such other route or routes as Developer or any transferee or assignee of Developer may construct on Owner's Property from time to time, for the benefit of and for purposes incidental to Operations on Owner's Property and for the benefit of and for purposes incidental to Operations, including Operations on lands other than Owner's Property;

(b) constructing, reconstructing, erecting, installing, improving, replacing, relocating and removing from time to time, and maintaining, using, monitoring and operating, existing, additional or new (i) wind turbines, wind energy conversion systems and other power generation facilities, of any type or technology ("WTGs"), and associated towers, (ii) electrical transmission and distribution facilities, including without limitation, overhead and underground transmission, distribution or collector lines, circuit breakers, meters, conduit, footings, towers, poles, crossarms, guy lines, anchors, cabling and wires, (iii) overhead and underground control, communications and radio relay systems, (iv) substations, interconnection and/or switching facilities and electric transformers and transformer pads, (v) energy storage facilities, (vi) meteorological towers and wind measurement equipment, (vii) control buildings, control boxes and computer monitoring hardware, (viii) utility installations, (ix) safety protection facilities, (x) maintenance buildings and yards and construction laydown yards, (xi) roads and erosion control facilities, (xii) signs and fences, and (xiii) other improvements, fixtures, facilities, machinery and equipment associated or connected with the generation, conversion, storage, switching, metering, step-up, step-down, transmission, distribution, conducting, wheeling, sale or other use or conveyance of electricity (all of the foregoing, including the WTGs, collectively "Windpower Facilities"); and

(c) undertaking any other lawful activities, whether accomplished by Developer or a third party authorized by Developer, that Developer reasonably determines are necessary, helpful, appropriate or convenient in connection with, incidental to or to accomplish any of the foregoing purposes.

**From:** Williams, Deborah [[mailto:deborah\\_williams@fws.gov](mailto:deborah_williams@fws.gov)]

**Sent:** Friday, January 26, 2018 8:08 AM

**To:** Casey Willis <[CWillis@infinityrenewables.com](mailto:CWillis@infinityrenewables.com)>

**Cc:** Natalie Gates <[natalie\\_gates@fws.gov](mailto:natalie_gates@fws.gov)>

**Subject:** Re: Question on USFWS Grassland Easements

Hi Casey -

I learned a few things in regards to your specific question below - and as always sometimes one question leads to another. So here is what I know - you MAY be correct in your interpretation of superseding jurisdictional rights and NEPA. But it depends on the language in your lease agreement. We have seen lease agreements that only covered the actual turbines and not all the other associated infrastructure that could impact our easement (i.e. roads, substations, temporary impacts to wetlands). If any of the proposed actions trigger any of FWS jurisdiction (including temporary impacts to a wetland) where FWS would have to issue a permit - that (permit issuance) is a federal action and therefore NEPA would be triggered. I would be happy to look at your lease agreement and give you some feedback. Assuming you have all new agreements and aren't speaking of one that you purchased or inherited that another company wrote - your agreements are likely pretty broad. But we have seen ones (especially older ones) that did not confer all the needed rights. The other situation we have seen trip up folks in the

past are permits for temporary impacts to wetlands. If FWS issues a permit there is a "Federal Action" under NEPA.

Let me know if this makes sense to you - I am in the office all day today if you would like to catch up over the phone.

Deb

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Deborah Williams  
Project Leader/Wildlife Refuge Manager  
Huron Wetland Management District  
Phone: 605-352-5894, ext 111  
Cell: 605-350-0712  
Fax: 605-352-6709

On Thu, Jan 25, 2018 at 12:10 PM, Casey Willis <[CWillis@infinityrenewables.com](mailto:CWillis@infinityrenewables.com)> wrote:

Hi Deborah,  
I just wanted to check in and see if you have any feedback on this.  
Thanks,  
Casey

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**From:** Deborah Williams [mailto:[deborah\\_williams@fws.gov](mailto:deborah_williams@fws.gov)]

**Sent:** Friday, January 19, 2018 10:46 AM

**To:** Casey Willis <[CWillis@infinityrenewables.com](mailto:CWillis@infinityrenewables.com)>

**Subject:** Re: Question on USFWS Grassland Easements

Casey - I am on travel this week and will get back to you next week when I return to SD - (assuming no furlough).

Deb

Sent from my iPhone

On Jan 19, 2018, at 11:55 AM, Casey Willis <[CWillis@infinityrenewables.com](mailto:CWillis@infinityrenewables.com)> wrote:

Hello Deborah,  
I'm reaching out to you today as I need to seek to clarify one issue as it pertains to the USFWS's grassland easement program. You and I discussed this program at length in a call in November and I have a pretty good idea of how it works. I understand that if the USFWS has an pre-existing grassland easement in place with a particular landowner and Infinity then elects to sign a wind easement, in this circumstance Infinity's easement would be recorded *after* the USFWS grassland easement and thus the rights granted to USFWS would be binding on Infinity's easement. There is a process associated with carving out areas of an existing grassland easement, but that would be a federal action and subject to NEPA. In this circumstance, we will likely seek to just avoid the area based on the discussion that you and I had.

The circumstance I wanted to address with you now is when we have an existing wind easement that has been executed with the landowner and recorded in the appropriate land records *before* the USFWS signs a grassland



easement for all or a portion of the property that is the subject of Infinity's wind easement. In that circumstance, Infinity's understanding is that the rights associated with the wind easement would be superior to (that is, not subject to) the USFWS grassland easement due to the fact that the Infinity's easement was executed and recorded prior in time to the grassland easement and, by recording the wind easement in the real property records, USFWS is on notice of the Infinity pre-existing easement rights. The rights associated with our easement allow us to develop and install one or more wind turbines along with associated infrastructure anywhere in the easement area. In those circumstances, it is Infinity's understanding that the development of the wind project on the Infinity easement property would not be subject to NEPA and there would be no authorization, agreement, concurrence, or other documentation that Infinity would need to seek for the project with the USFWS as it relates to the grassland easement on the property. Infinity's understanding is that, when a grassland easement is signed after the Infinity wind easement, USFWS and the landowner would be responsible for making any modifications or amendments related to the grassland easement, including to reflect the superior rights of the Infinity wind easement to use the property for wind energy purposes.

Could you please confirm that USFWS agrees as it pertains to this issue? I'm including Natalie on this as we were just on a call where I brought this very issue up.

Casey

Infinity Renewables

[3760 State Street, Suite 200 | Santa Barbara, CA 93105](https://www.infinityrenewables.com/3760-State-Street-Suite-200-Santa-Barbara-CA-93105)

O 805.569.6185 | M 805.701.1979 | F 805.569.6190



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

January 28, 2019

Casey Willis  
Engie North America  
3760 State Street  
Suite 200  
Santa Barbara, CA 93105

RE: Environmental Assessment – Request for Comments  
Triple H Wind Project, Hyde County, South Dakota

Dear Mr. Willis:

The South Dakota Department of Environment and Natural Resources (DENR) Surface Water Quality Program has reviewed the proposed wind energy generating project in Hyde County, South Dakota. Based on the information provided, DENR has the following comments:

1. 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 (1-800-737-8676) or <http://denr.sd.gov/des/sw/stormwater.aspx>.
2. A Surface Water Discharge permit may be required if any construction dewatering should occur as a result of this project. Please contact this office for more information.
3. Impacts to tributaries, creeks, wetlands, and lakes should be avoided by this project. These waterbodies are considered waters of the state and are protected under Administrative Rules of South Dakota (ARSD) Chapter 74:51. Special construction measures may have to be taken to ensure that water quality standards are not violated.

Chapelle Lake is located within the project boundary. This lake is classified by the South Dakota Surface Water Quality Standards and Uses Assigned to Lakes for the following beneficial uses:

- (5) Warmwater semipermanent fish life propagation waters;
- (7) Immersion contact recreation waters;
- (8) Limited contact recreation waters; and
- (9) Fish and wildlife propagation, recreation, and stock watering waters.

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

4. 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 United States Army Corps of Engineers for more information 605-224-8531.

If you have any questions concerning these comments, please contact me by email at [Shannon.Minerich@state.sd.us](mailto:Shannon.Minerich@state.sd.us). Thank you.

Sincerely,



Shannon Minerich  
Environmental Scientist  
Surface Water Quality Program



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
CORPS OF ENGINEERS, OMAHA DISTRICT  
SOUTH DAKOTA REGULATORY OFFICE  
28563 POWERHOUSE ROAD, ROOM 118  
PIERRE, SOUTH DAKOTA 57501-6174

January 16, 2019

South Dakota Regulatory Office  
28563 Powerhouse Road, Room 118  
Pierre, South Dakota 57501

ENGIE North America, Inc.  
Attn: Casey Willis  
3760 State Street, Suite 200  
Santa Barbara, California 93105

Dear Mr. Willis:

Reference is made to your request for comments regarding a wind energy generating facility in Hyde County, South Dakota proposed by Triple H Wind Project, LLC.

Under the authority of Section 404 of the Clean Water Act, Department of the Army (DA) permits are required for the discharge of fill material into waters of the United States. Waters of the United States include the area below the ordinary high water mark of stream channels and lakes or ponds connected to the tributary system, and wetlands adjacent to these waters. Isolated waters and wetlands, as well as man-made channels and ditches, may be waters of the United States, which must be determined on a case-by-case basis.

It is unclear from the information provided what jurisdictional waters, if any, will be impacted. If your final design prescribes the placement of fill material in any of the jurisdictional areas described above, please complete and return an application form prior to doing any work. The application can be found at <http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>

Work in an aquatic site should be shown on a map identifying the Quarter Section, Township, Range and County, Latitude and Longitude, and the dimensions of work in each aquatic site. Include a delineation of special aquatic sites such as wetlands that will be impacted. Any loss of an aquatic site may require mitigation. Mitigation requirements will be determined during the Department of the Army permitting review.

If you have any questions, or would like to schedule a pre-application meeting to discuss this project prior to the submittal of an application, please feel free to contact this office at the above Regulatory Office address, or telephone Cathy Juhas at (605) 224-8531 and reference action ID NWO-2019-0068-PIE.

Sincerely,

A handwritten signature in black ink that reads "Steven E. Naylor". The signature is written in a cursive style with a large, stylized "S" and "N".

Steven E. Naylor  
Regulatory Program Manager,  
South Dakota