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To:

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**COMMENTS ON
Proposed Guidelines for Conducting Bird and Bat Studies at Com-
mercial
Wind Energy Projects**

February 8, 2008

Thank you for the opportunity to comment on the Proposed Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects. The Delaware-Otsego Audubon Society operates the Franklin Mountain Hawk Watch near Oneonta, New York. Our organization has operated the Franklin Mountain Hawk Watch for 19 consecutive fall seasons and tallied over 10,000 hours of hawk counting. Our site often records over 200 Golden Eagles during migration.

We generally support wind power as an alternative to nuclear and fossil fuels. A copy of our policy on wind power is attached to these comments. Despite our support for wind power, we have concerns about how projects will impact wildlife. We have worked with developers, their consultants, local governments and lead agencies to assure that proper studies are done both before construction and after operation begins.

Our review of several projects' Avian Impact Assessments has caused a growing level of concern. We are pleased to see that some of our concerns about these assessments' inadequacies have already been addressed by DEC in these draft guidelines.

It is obvious much thought and work went into developing this document. We find much to admire. Even so, we find some areas that need to be addressed, revised or strengthened to improve the quality of studies to be done at proposed wind project sites in the future.

There is a clear need to address information about the hawk migration surveys: the recommended dates miss much - and important parts - of the migration. The amount of surveying expected must be clarified; and DEC must consider how studies are designed by contractors in the employ of the industry.

Our concern about studies and work plans designed by those with a financial interest in projects extends to other aspects of these guidelines.

Information on wintering birds should be gathered for every site. Where large numbers of birds are present during winter, post-construction surveys should be done during that season.

We do not wish to delay finalizing these recommendations, however, DEC should immediately begin to address the need for guidelines for off-shore projects.

We would like the list of landscape features expanded that increase “the likelihood that adverse impacts.....will result”. Also, we find the survey periods for migratory songbirds to be inadequate.

We have provided detailed information on all of our concerns including those mentioned above.

Wintering Bird Surveys should be standard.

The draft guidelines only suggest wintering bird surveys for projects “that contain or are near a location known to harbor significant numbers of wintering birds.” For various reasons there is a correlation between how rural an area is, and how easy it will be to develop a wind power project. Rural areas of the state with good wind power potential have low human populations, and generally few birders. While an effort has been made to survey the whole state for breeding birds, little is known about winter avifauna in much of New York. The burden needs to be on the developer to show that an area does not harbor significant numbers of wintering birds. Unless clear evidence exists, wintering bird surveys should be a part of the standard pre-construction surveys.

2 Years of Standard Pre-construction Surveys are needed, even more so in winter.

The guidelines state, a minimum of one year of pre-construction studies is “recommended” at all proposed wind energy projects. The use of an area by birds can vary from one year to the next based on factors such as food availability and weather. One season of standard pre-construction surveys is insufficient. These guidelines should expect developers to conduct 2 years of standard surveys during

the breeding season, migration and winter. The necessity of conducting 2 years of standard Wintering Bird Surveys cannot be underestimated. Raptor prey availability can change dramatically at any site. Deep or crusted snow can make surveys meaningless when compared to better foraging conditions. Surveyors conducting these winter surveys should record data on snow condition and depth which both affect the use of an area by birds.

In practice, these studies should be “required” not “recommended”.

Is the NY Natural Heritage Program database up to date?

The NY Natural Heritage Program database is referenced as a source of information. A database data entry backlog that existed as recently as 2006 compromised the accuracy of this source resulting in the developer of the proposed project in Jordanville being unaware of the regular presence of Short-eared Owls in the area. Does this problem still exist? If so, how can DEC assure that developers are given all pertinent information?

Other sources for compiling existing information on bird resources.

In addition to sources noted in the section on sources of information on bird resources, eBird (www.ebird.org/NY) and regional bird listserve and discussion group archives should be searched for rare or significant bird reports in or near the project. Regional listserve and discussion group addresses can be found at NYSOA's website - www.nybirds.org/.

The amount of raptor migration surveys needed is not clearly stated.

The raptor migration survey recommendation of “*at least 10 days during the predicted peak migration times for targeted species*” is ambiguous. We do not know if this mean 10 days of surveys in a year, 10 days during the spring and another 10 days in the fall, or, 10 days during the peak of each targeted species' migration in both spring and fall. Based on the experience of Franklin Mountain counters working at sites away from Franklin Mountain, 100 hours of surveying in a season, conducted on no fewer than 20 well chosen days, would be the minimum amount of time needed to assess a site to determine if expanded surveys are needed.

Conducting raptor migration surveys from multiple sites in a project area.

The guidelines want surveys to be done at “*one or more prominent locations.*” When surveys are conducted at more than one site in a project, an observer should be placed at each site. If only one observer is used at alternating sites, the study must be designed so the total number of birds moving through a project is extrapolated. In 2006, at Jordanville, a count of Golden Eagles was conducted from 2 sites with one observer alternating between sites. No effort was made to estimate the total number of eagles. It appeared the study neglected to count half the eagles.

Comparing projects' raptor migration surveys to existing hawk watch sites.

Avian Impact Assessments sometimes compare raptor migration surveys from wind project sites with nearby hawk watches. When data analyses compare project sites to established hawk watch sites, they should include consideration of the number of observers at each site, the training and skill of the observers, and how those factors could affect the analyses. The number of observers and their skill

level has an effect on the number of raptors seen and recorded. For hawk watch sites, the experience of observers is not publicized. However, information on counter experience, and the vetting requirements for any hawk watch, can be requested from hawk count site compilers. The number of observers contributing to a count can be found in the hawkcount.org database.

The dates of raptor migration surveys must be adjusted.

The recommended “*spring and fall migration periods (April 1 to end of May; August 15 to November 1)*” need to be changed. The fall date range ends too soon. It does not include the peak season for Golden Eagle and would end surveys during the peak of Red-tailed Hawk flight. Fall observations need to be conducted until at least November 30 for Red-tailed Hawk and Golden Eagles. Continuing fall surveys into mid-December if Golden Eagles are observed appears to be a reasonable approach as long as surveys continue through November. Most fall Golden Eagles are recorded after October. While we support starting these surveys in mid-August, November is more important than August if a choice needs to be made.

The spring count dates start too late for all but 2 species. From 2003 to 2007 at the Derby Hill Bird Observatory, 64% of all spring migrants that were not Broad-winged Hawks or Turkey Vultures, passed the site by the end of March. Spring surveys at any site need to start early enough to count the majority of individuals of most species. The current guideline dates cannot do this. Spring surveys need to begin on March 1. This is essential to assess the spring migration of 13 species. It is especially important to begin surveys on March 1 for the NYS Endangered Golden Eagle, an early spring migrant.

Post construction studies should be extended into winter.

Since foraging raptors are known to be vulnerable to blade impacts, if wintering bird surveys determine a presence of a significant number of raptors or other species of concern using the site during that season, post-construction studies need to be extended into winter. This should include mortality surveys, and bird habituation and avoidance studies. If the trend towards warmer and more open winters continues, increasing numbers of raptors may be wintering this far north and may be present in these project areas. Following the warm fall of 2006 and during the mostly open winter of 2006-2007, Golden Eagles were observed throughout the winter across the Appalachian Plateau.

Off-shore wind projects not covered in document.

The draft guidelines appear to refer only to on-shore wind projects. Off-shore projects have been proposed in NY State and others may follow. These have their own set of threats to bat and bird resources. Unless a separate set of guidelines are intended for these projects, these should be expanded to include off-shore projects.

Areas of concern need to be expanded.

The guidelines refer to the Atlantic coast and the shorelines of the Great Lakes as areas of concern. Other areas of the state also are documented as significant migratory bird routes, and warrant similar concern and attention., and should be included in this list. These areas include the Finger Lakes, the Hudson River valley, the Susquehanna River valley, Chautauqua Lake and Lake Champlain.

Survey periods for migratory songbirds inadequate.

The guidelines call for weekly songbird migration surveys as part of the pre-construction regime. This is inadequate to accurately assess the presence of migrants, as the timing of movements of these birds is highly variable, and not always related to weather patterns. It would be easy to miss a significant flight of migrant songbirds using this schedule.

This is a particular concern if radar studies of migrants are not required at a site. The guidelines would be strengthened by recommending radar monitoring for all projects, as is the current practice at wind sites in NY State. If this is not done, the number of surveys for songbird migration should be at least doubled.

Public disclosure and peer review of work plans and studies needed.

In order to allow for public involvement and scrutiny of recommendations from DEC to wind developers, of resulting work plans, and results of studies carried out by developers, the guidelines should stress that this information must be provided to the public and concerned parties as it is drafted by the agency and the developer, and that public comment be considered. This will allow for improvements in the process and in final plans and studies.

The guidelines should also strongly recommend establishment of an independent peer review panel to consider recommendations, work plans and studies, again with timely public disclosure of their findings.

Submitted by Tom Salo, President

Delaware-Otsego Audubon Society