



Bringing back the birds



Mr. Roak Parker
DOE Golden Field office
15013 Denver West Parkway
Golden, CO 80401

October 20, 2016

Dear Mr. Parker:

The American Bird Conservancy (ABC) and Black Swamp Bird Observatory (BSBO) appreciate the opportunity to comment on the public scoping process for the proposed Icebreaker Wind Energy Project in Lake Erie, Ohio.

ABC is a 501 (c) (3) not-for-profit membership organization whose mission is to conserve native birds and their habitats throughout the Americas (www.abcbirds.org). ABC acts by safeguarding the rarest species, conserving and restoring habitats and reducing threats, while building capacity in the bird conservation movement.

BSBO is a 501(c) (3) not-for-profit organization whose mission is to inspire the appreciation, enjoyment and conservation of birds and their habitats in Ohio through research, education, and outreach (<http://www.bsbo.org/>).

ABC and BSBO support the development of clean, renewable sources of energy such as wind and solar power, but also believe that it must be done responsibly, sited appropriately, and designed to have minimal impact on our public trust resources, including native species of birds and bats, and particularly threatened, endangered and other protected species.

ABC developed the concept of Bird Smart Wind Energy, which is described in some detail in Hutchins et al (2016). In the case of wind energy, careful wind generation siting is crucial in preventing the unintended impacts to America's native bird species. ABC and BSBO have serious concerns about the potential impact of the proposed Icebreaker Offshore Wind Energy Project on the seasonal and resident avian and other wildlife populations in this region, one of the world's largest confluences of migratory birds and bats. In addition, both ABC and BSBO have a long history of interaction with the developer and of expressing concerns about the siting and operation of this project.

First, ABC and BSBO were specifically asked by the project's developer, LEEDCo, to review a white paper on impacts to birds from the proposed project (LEEDCo 2014) and offer comments, which we did (see attached). We identified several problems with the LEEDCo assessment and were told that our comments would be given serious consideration and that modifications to the white paper would be made. Yet, two years later, none of that has happened.

Second, in the past year, Lake Erie was designated a "Globally Important Bird Area" by Bird Conservation International. This followed a formal petition submitted by BSBO and was based on the number and variety of avifauna using the lake or the airspace over it at various times of the year (see Diel et al. 2013, Bowden et al, 2015, Horton et al 2016, Rathbun et al. 2016).

Third, BSBO's Biggest Week in American Birding continues to attract tens of thousands of visitors to northwestern Ohio and contributing some \$40 million to the local economy, as well as building a powerful political constituency for nature (Kaufman 2016), all of which could be threatened by large-scale wind energy development in and around Lake Erie.

Last, but not least, the U.S. Fish and Wildlife Service (FWS) recently released their advanced radar study of the southern shore of Lake Erie, documenting that vast numbers of birds and bats migrate along the shoreline and travel over the lake, often flying within the rotor swept area of commercial wind turbines (Horton et. al. 2016). This study not only has verified the high risk to federally protected species in one of the world's great confluences of migratory birds and bats; it has also discredited industry-funded risk assessments based largely on daytime, visual surveys. Such surveys, as well as conventional radar studies (including the ones cited in LEEDCo, 2014), fail to measure the altitude at which birds and bats are flying and most of these migrants are traveling at night. These studies, including those on Lake Michigan and Ontario (Bowden et al, 2015, Rathbun et al. 2016) have verified what ABC, BSBO and others have been saying for some time: that the Great Lakes are not a good place for large-scale, commercial wind energy development.

Hiring paid consultants to collect pre-construction risk assessments preordains the result and is a clear violation of scientific integrity practices:

"Scientists with conflicts of interest are viewed as being at least partially integrity-compromised, and, even with complete and open disclosure, are regarded, at least to an extent, as of suspect scientific credibility" (Rowe and Alexander 2012).

It is therefore not surprising that independent researchers have found a very poor correlation between pre-construction risk studies at wind energy facilities and actual number and type of birds killed post-construction (Ferrer et al, 2011).

As you may know, the FWS recommends that no wind turbines should be built within three miles of the shorelines of the Great Lakes (Nature Conservancy recommends five miles), yet the current FWS

studies suggest that this restriction should be extended to 5-10 miles. Unfortunately, the FWS has not yet commented on the prospect of offshore wind development in the region, yet vast numbers of migratory songbirds and bats are well known to fly around and across the lakes in journeying to and from their breeding grounds in the boreal forests of Canada (Diel et al 2003, Thorne 2014). Vast numbers of waterfowl are also known to utilize the central portions of the Lake at various times of the year. A large, commercial wind project in Lake Erie is likely to result in large numbers of cumulative migratory bird and bat deaths and potentially violate the Migratory Bird Treaty Act (MBTA), the Endangered Species Act (ESA), and Bald and Golden Eagle Protection Act (BGEPA).

Although the initial project would involve construction of six “experimental” turbines nearly 500 feet tall, the company has publically stated its long-term intention is to place as many as 1,000 turbines along the southern shore of Lake Erie (Miner 2015). ABC and BSBO believe this would be a major disaster for our ecologically important birds and bats, including many threatened and endangered species and other species of conservation concern. Thus, we are seriously concerned that the very approval of this project will open up the entire region—perhaps among the most sensitive areas in the U.S. for migratory birds and bats-- to large-scale wind development, a potential environmental disaster.

ABC and BSBO also recognize that, based on the original application, the Ohio Power Siting Board (OPSB) put LEEDCo on notice that it was deficient in 14 key requirements under Ohio state law. ABC and BSBO wrote in August 2016 and asked the OPSB if LEEDCo had yet made any progress in addressing the Board’s concerns and received a brief response, which did not detail the status of the project, but rather focused on process. Thus, we do not know if any of these serious deficiencies have been addressed. This makes it ever more surprising that the project was recently given a \$40 million federal grant to continue its planning processes.

Despite all of these serious concerns and omissions, we understand that the purpose of this exercise is to identify issues that should be considered in the Environmental Assessment (EA).

We agree that all of the issues listed on pages 1-2 of the “Notice of Public Scoping for the Icebreaker Offshore Wind Project Environmental Assessment” should be covered in any pre-construction assessment of possible impacts. However, given the siting of this project in a Globally Important Bird Area, including the likely presence of federally-protected species, such as Kirtland’s Warbler, Piping Plover, Rufa Red Knot and Bald Eagles, we believe that a full blown Environmental Impact Statement (EIS) and Section 7 consultation under the Endangered Species Act (ESA) will be required for this project, not a cursory EA. If eagles are present during anytime of the year, then the law also requires that an application for an Eagle Incidental Take Permit be submitted under the Bald and Golden Eagle Protection Act.

Essential to such as assessment will be an independent advanced radar study of the project site, like those recently conducted by the FWS, that not only assesses volume, but also measures the altitude of

flying migrants under a wide range of weather conditions (note that factors such as wind speed and direction, fog and cloud cover can affect flight height in migrating birds and thus increase risk). These should be combined with acoustic monitoring studies to assess which species can be identified in the area at different times of the year (e.g., Sanders et al. 2014). We note that the same paid consultant to the Icebreaker project stated that the proposed Camp Perry Wind Energy Project in Ohio would have little or no impact since migrating birds fly much higher than the rotor swept area of commercial wind turbines, when, in fact, the recent FWS radar studies have proven that statement to be patently false. In addition, LEEDCo's conclusions that no protected species were seen during limited daytime visual observations can in no way be used to assess risk. Many of the migratory species of concern are nighttime migrants and would be undetectable during daylight surveys. In fact, detection of threatened and endangered species is exceedingly difficult, even when they are known to be present and is directly linked to survey effort (Garrard et al, 2014).

Also required should be a full explanation of how the project developer intends to measure and report bird and bat fatalities at the project. In fact, the technology to collect accurate fatality data (including numbers and species killed) does not currently exist for offshore wind energy projects. Some methods, including the use of audio recordings of bird strikes and the use of high quality streaming video, may change this in the future. However, at present, traditional methods of fatality estimation cannot be used over open water, as the carcasses are quickly lost. Thus, precisely how will these data be collected and reported and by whom (See below)? Flight height is a key indicator of risk (Johnstone et al. 2013).

Transparency of bird and bat kill data has been a continuing and serious problem with wind energy development in the United States (Associated Press 2015, Jackson 2016). If this project is eventually built, then all post-construction bird and bat fatality data should be collected by independent, third-party experts using standardized methods and reported directly to regulatory agencies (ABC 2015, Clarke 2014). Especially since this project is on public "land", these data should also be made available to the public and concerned conservation organizations. These are public trust resources and the public has a right to know. A plan for compensating the public for any loss of federally protected species should be established before any construction takes place, and should include setting aside or rehabilitating additional lands outside the project area for bird and bat conservation purposes. If and when data show that large numbers of birds and bats are taken by the project when it begins operation, especially federally protected species, then the option of total shut down and dismantlement of the turbines must be considered – and that should be made clear at the outset. In the EIS, there should be a full assessment of the possible cumulative impacts of wind energy development in and around the Great Lakes in both the U.S. and Canada. Many projects are in various stages of development (e.g., Amherst island, Camp Perry, Lake Erie Business Park, Horse Creek, Lighthouse, Strong breeze, Wolfe Island, White Pines, Galloo Island, etc.). In addition, concerned local and national environmental groups are fighting virtually all. If many or all of them are eventually built, the cumulative impact on our native birds and bats could be huge and unsustainable.

Last, but not least, the project developers must in detail explain how they plan to mitigate for any losses of birds and bats at their facility. Although the wind industry purports to know how to mitigate for bird and bat deaths, few of these methods have been tested for their efficacy. According to a recent review (Arnett and May 2016), the only proven methods of mitigation to reduce bird deaths were proper siting (which this project violates) and curtailment of the turbine blades. The latter option is highly unpopular with wind energy developers as it cuts into their profit margin.

ABC and BSBO question whether the sacrifice of hundreds of thousands, if not millions, of our shared continent's ecologically important birds and bats justifies building any large, commercial wind energy facility in areas with high concentrations of birds and bats, like the Great Lakes. The ecological services—pest control, pollination, and seed dispersal—that birds and bats provide are worth billions to the Canadian and U.S. economies (Sekercioglu, 2015, Sekercioglu et al. 2016). Yet, many of North America's bird species are in precipitous decline, with over a third in need of concerted conservation action (North American Bird Conservation Initiative 2016).

In conclusion, there are many serious and perhaps insurmountable concerns about the placement of this project from a bird conservation perspective. Both ABC and BSBO are supportive of wind energy development to reduce the impacts of climate change; however, our ecologically important birds and bats should not be collateral damage in our war against climate change, especially when proper siting away from large confluences of birds and bats could resolve much of the conflict. Unfortunately, wind energy developers, apparently with the support of our own government agencies, continue to try to put their facilities in the worst possible places for birds and bats. The Icebreaker Project is one such example. ABC and BSBO therefore cannot support the placement of wind turbines and their associated infrastructure in and around the Great Lakes, one of the world's greatest concentrations of migratory birds and bats. Attempts to do are almost certainly going to result in many costly legal battles, as well as the loss of public support for wind energy development in general.

Thank you for your consideration.

Respectfully Yours,



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Cc: D. Ashe, J. Ford

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