

# Memo

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**Stantec**

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To: USFWS, EverPower, and Stantec From: Stantec  
File: Job #195600885 Date: July 17, 2013

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**Reference: June 18, 2013 Meeting to Discuss EverPower's Proposed Baron Winds Project<sup>1</sup>**

This memo summarizes the meeting on June 18, 2013 between the U.S. Fish and Wildlife Service (USFWS), EverPower Wind Holdings, Inc. (EverPower), and Stantec Consulting (Stantec) at the USFWS New York Field Office in Cortland, New York. The purpose of the meeting was to discuss the proposed work plan for the Baron Winds Project which was based on USFWS's Land-based Wind Energy Guidelines (2012) and Eagle Conservation Plan Guidance (2013), and protocol for Standard Surveys detailed in the New York State Department of Environmental Conservation (NYSDEC) Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects (2009). The Draft work plan was provided to USFWS by EverPower on June 18, 2013. The meeting commenced at 9:30. Attendees included:

Tim Sullivan, USFWS  
Sandy Doran, USFWS  
John Wiley, USFWS  
Sarah Nystrom, USFWS  
Seth Wilmore, EverPower  
Mike Speerschneider, EverPower  
Jessica Costa, Stantec; and  
Sarah Boucher, Stantec.

Seth introduced the project, explaining that at this time of preliminary planning, the project is expected to be up 300 to 400 megawatts (roughly 200 turbines) and is expected to be contained mostly in Steuben County adjacent to the Cohocton Wind Project. The IPaC screening resulted in no federally listed species in Steuben or Allegany Counties. Seth explained that in accordance with Tiers 1 and 2 the project requested information from NY Natural Heritage. The Natural Heritage database found records of eastern small-footed bats within 40 miles of the project. Jess said that the habitat assessment proposed for the project would identify any potential habitat for small-footed bats which includes talus slopes.

USFWS commented that there is a bald eagle nest approximately 15 miles west of Hornell; this appears to be the closest nest to the project however USFWS recommended consulting with NYSDEC regarding any 2013 eagle nests.

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<sup>1</sup> EverPower also discussed the proposed Cassadaga Wind Project and the Allegany Wind Project with USFWS at this meeting; however these meeting minutes include comments related to the Baron Wind Project, only. Minutes related to the discussion of the Cassadaga Wind Project are included in a separate memo dated July 17, 2013.

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John asked if Baron Winds, Cohocton, and Howard would be assessed as a single impact (a cumulative impact) in terms of the collision risk model; Seth and Jess explained that there is no data from the Cohocton and Howard projects as the model was not available at the time of these projects and combining all 3 for purposes of risk assessment to eagles would therefore be problematic. John added that northeastern bulrush (*Scirpus hattorianus*), a federally listed species, occurs in some vernal pools and was found in Steuben County 3 years ago. Seth explained that project micro-siting would avoid most impacts to vernal pools and John added that transmission corridors and access roads also would need to avoid any vernal pools supporting this species.

Stantec explained that proposed surveys included eagle point counts, a habitat assessment, acoustic bat surveys during the summer residency and late-summer swarming period, and breeding/migratory bird surveys. Stantec said that raptor migration surveys were not proposed as raptor migration is a regional phenomenon and has been studied during pre-construction surveys at the nearby Cohocton and Howard projects; in addition, raptor fatalities at both projects has been very low. USFWS recommended verifying the proposed surveys with NYSDEC, as the southern block of Baron Winds is forested, whereas the Cohocton and Howard wind projects are agricultural. Sandy commented that there may be a bald eagle nest in Wayland, just north of the project, and hypothesized that foraging habitat for this eagle occurs west of the project, suggesting that movements from this nest likely would be westward, and Seth added that westward movements would avoid the project area. USFWS asked if Baron Winds would be considered 2 separate projects; Seth responded that they would decide after determining a turbine layout.

Tim commented that USFWS would like to see preliminary turbine locations to talk further about surveys proposed for the project.

Tim asked about the construction timeframe for both projects. Seth responded that going through Article 10 requirements would take 9 to 10 months, so the projected construction date for both projects is 2015.

Sandy Doran commented on loss of habitat for Myotis including eastern small-footed bat, little brown bat, and northern long-eared bat. She indicated that these species may be listed in the future.

The meeting ended at approximately 11:30.

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To: USFWS, EverPower, and Stantec From: Stantec

File: Job #195600885 Date: September 13, 2013

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**Reference: September 3, 2013 Meeting to Discuss Eagle Surveys at EverPower's Proposed Baron Winds Project**

EverPower and Stantec met with biologists from the Cortland, New York Field Office of the US Fish and Wildlife Service (USFWS or FWS) and FWS's Bald Eagle Coordinator, Sarah Nystrom, on September 3, 2013. The call began at 2:00 pm. Attendees included:

Tim Sullivan, USFWS  
Sandy Doran, USFWS  
Sarah Nystrom, USFWS  
Seth Wilmore, EverPower  
Trevor Peterson, Stantec; and  
Sarah Boucher, Stantec.

EverPower noted that the eagle point count surveys are planned to start the week of September 9 and wanted to discuss whether FWS had any comments on the proposed survey locations sent prior to the call. EverPower noted that the closest known bald eagle nest to the project as provided by DEC was approximately 1.4 miles north of the project in Wayland. FWS asked if the current status of the nest was known; data from 2011-2013 is not yet available. The nest produced 2 fledglings in 2010. FWS will confirm the nest in their database, and noted that the nest is protected regardless if it is active or not.

EverPower noted that because of the proximity to the nest, they and Stantec recommend moving 2 points from the northern portion of the project area just outside the project area to attempt to obtain movement data (i.e., seasonal and direction) for the nesting pair. FWS said they agreed with this approach; data would not be used in a risk assessment, but FWS would look closely at this qualitative data when assessing risk level at the project. FWS noted that they agreed with this approach so long as surveys adequately cover the project footprint. Sarah Nystrom recommended moving a point between proposed points 3 and 6 as there appeared to be a gap in coverage; otherwise, coverage appeared adequate.

Sarah Nystrom also recommended calculating  $\frac{1}{2}$  the mean inter-nest distance as an initial tool for risk assessment at this project. She recommended calculating multiple scenarios to see how numbers compare when the project boundary is shifted (i.e. 15 miles, 20 miles, 30 miles, and 40 miles). EverPower asked how results of this calculation and proximity to the nest would impact risk assessment as it pertains to take permits. Sarah indicated that if eagle minutes are low despite many survey hours, risk would be categorized as low despite the proximity of the closest nest. Risk categories in the Guidance were discussed. Sarah stated that there would be no updates to the analysis in the near future but that Regions have flexibility in their analyses.

**Reference: September 3, 2013 Meeting to Discuss Eagle Surveys at EverPower's Proposed Baron Winds Project**

USFWS asked if EverPower was considering raptor migration data from other nearby projects. They responded that pre-construction data from Cohocton, Howard, and Prattsburg would be considered. USFWS expressed some concern for Cassadaga in light of reported raptor migration and overwintering golden eagles near the Great Lakes, however noted that Cassadaga is over 10 miles from Lake Erie and may not experience the same level of migration as areas closer to shore, where migration tends to be concentrated. Raptor movement at Cassadaga would be captured during the spring raptor migration surveys planned for the project and during the eagle point count surveys conducted approximately every 3 weeks for one full year at this project.

USFWS asked how long surveys would occur; surveys will occur for one full year at an interval of approximately every 3 weeks at all 36 points depicted on the map provided. Stantec indicated that they will be finalizing the work plan and will provide it to FWS as soon as possible.

FWS asked if a similar meeting would be held regarding Cassadaga. EverPower responded that they had sent the final work plan which incorporated comments made by FWS and NYSDEC to the FWS on July 18, 2013 and received no further comment.

EverPower noted that they were awaiting FWS comment on the Allegany raptor management plan.

USFWS indicated that relatively high bat mortality has occurred in previous post-construction monitoring years at Cohocton, and asked if Baron Winds is considering studying bat activity and the presence of Indiana bat at the project. Stantec noted that they will conduct passive acoustic surveys at both project met towers using high and low detectors in accordance with the NYSDEC guidance; surveys will occur in 2014 in late summer and fall, the time period when bat fatalities have been highest at other projects in New York and in the East. The NYSDEC agreed with this approach during a conference call on June 27, 2013 with Stantec and EverPower, and agreed with the project team that active acoustical surveys at this site were not necessary. The project is outside the range of the Indiana bat and no known hibernacula occur within 40 miles of the project. Stantec will detail the acoustic surveys and other bird and bat surveys planned for the project in a revised work plan for FWS's review and comment.

The call ended at 3:00 pm.



**Reference: March 24, 2014 Initial Conference for Northern Long-eared Bat and Fall 2013 Survey Results Review - Baron Winds Project**

*presence/absence survey effort to present to EverPower and agencies for review).*

- USFWS indicated that acoustic presence/absence data would be used to assess the number of NLEB colonies in the project area, although criteria for the relationship between number of acoustic "hits" and number of colonies have not been established.
- Robyn indicated that the USFWS would assume probable absence during the summer if the approved acoustic methods are followed and no NLEB "hits" are documented.

**Assumed Presence of NLEB**

- Robyn indicated that USFWS would assume presence of NLEB in spring and fall during migration and currently there are no survey methods for the migration season.
- Trevor asked if presence data, as documented via acoustic surveys or mist net surveys, were necessary if NLEB are presumed to occur throughout the State.
- Robyn answered that all projects should be designed to avoid impacts to NLEB, and if impacts cannot be avoided, then data will be necessary to inform the number of colonies that might be impacted by the project. If tree clearing occurred outside the roosting season for NLEB, operational control measures still would be required.
- Robyn stated that adaptive management measures should be developed to verify the absence and to dictate steps to be taken if NLEB are found or calls are recorded at the project in the future. USFWS and the developer must agree on an expiration date for the data collected pre-construction.

**Avoidance/Minimization Strategies**

- Robyn summarized the New York Field Office's recommendations for wind projects as:
  - Avoidance during construction (winter clearing)
  - Avoidance strategy during operation (6.9 m/s curtailment when risk occurs). The NY field office is recommending curtailment at a cut-in speed of 6.9 m/s, recognizing that few studies have documented the relationship between bat fatalities and cut-in speed.
  - Habitat Conservation Plan or
  - Bird and Bat Conservation Strategy (in the case that risk of take is low), with triggers for adaptive management and a sufficient level of post-construction monitoring to detect a rare event such as a NLEB fatality. The BBCS could incorporate new technology or developments in bat science.

**Eagle Use and Consultation**

Eagle use surveys at the project have indicated relatively low to moderate use, but with eagle use concentrated in the northern portion of the project area. Such concentration is expected considering the location of the nest in Wayland. EverPower has reduced the turbine layout, eliminating strings of turbines nearest the nest.

## Memo

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**Stantec**

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To: NYSDEC, EverPower, and  
Stantec

From: Stantec

File: Job #195600885

Date: April 8, 2014

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**Reference: March 28, 2014 Teleconference with NYSDEC to Discuss EverPower's  
Proposed Baron Winds Project<sup>1</sup>**

This memo summarizes the teleconference on March 28, 2014 between the New York State Department of Environmental Conservation (NYSDEC), EverPower Wind Holdings, Inc. (EverPower), and Stantec Consulting (Stantec). The purpose of the meeting was to discuss the habitat assessment dated February 11, 2014 prepared by Stantec, and any implications of the assessment to the breeding bird surveys planned to be conducted at the project in May and June 2014 in accordance with the work plan dated July 2013. The meeting commenced at 10:00 am. Attendees included:

Brianna Gary, NYSDEC  
Seth Wilmore, EverPower  
Sarah Boucher, Stantec  
Trevor Peterson, Stantec.

Sarah summarized results of the habitat assessment, which identified a large freshwater emergent wetland complex in the northeast portion of the project area with potential to support pied-billed grebe, northern harrier (Stantec documented 18 observations of northern harrier during late summer/fall 2013 and spring 2014 eagle point count surveys), and 3 areas with potential to support breeding Henslow's sparrow. Brianna asked if pied-billed grebe was listed on the Natural Heritage Database and Sarah confirmed; Brianna indicated that habitat for this species generally occurs closer to the Great Lakes or as Stantec indicated, the St. Lawrence River Valley. Sarah indicated that Mud Lake and the surrounding wetland areas did not seem to provide adequate wintering habitat, and no pied-billed grebes were observed during eagle point count surveys conducted in late summer/fall 2013 or in spring 2014. Brianna indicated the odds of impact to pied-billed grebe are low. Brianna indicated that northern harrier likely are nesting in the general vicinity and were commonly observed at other nearby wind projects. She indicated that Henslow's sparrow should be detectable during standard point count surveys as proposed in the work plan.

Related to acoustic data managed by Carl Herzog, Brianna indicated that though results would not be predictive, they could indicate presence or potential absence.

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<sup>1</sup> Meeting participants also discussed the proposed Cassadaga Wind Project; meeting minutes related to Cassadaga are included in a separate memo dated August 8, 2014

## **Stantec**

April 8, 2014

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**Reference:**       **March 28, 2014 Teleconference with NYSDEC to Discuss EverPower's  
Proposed Baron Winds Project<sup>1</sup>**

Brianna did not expect data release to be a problem. Brianna indicated that extensive acoustic surveys were conducted at Horse Creek.

The teleconference ended at approximately 10:45 pm.