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October 11, 2012

Ms. Jane Murray, Secretary
New Hampshire Site Evaluation Committee
New Hampshire Department of Environmental Services
P.O. Box 95
29 Hazen Drive
Concord, NH 03302-0095

Re: Docket No. 2012-001 Application of Antrim Wind Energy, LLC for a Certificate of Site and Facility for a Renewable Energy Facility

Dear Murray:

Enclosed please find for filing electronically in this matter the First Supplemental Pre-filed Direct Testimony of Carol R. Foss testifying on behalf of the Audubon Society of New Hampshire.

The original and nine copies this testimony will be hand-delivered to your office for filing today.

Very truly yours,



David M. Howe

Cc: Service List

Enc.

**THE STATE OF NEW HAMPSHIRE
BEFORE THE
SITE EVALUATION COMMITTEE
DOCKET NO. 2012-01
APPLICATION OF ANTRIM WIND ENERGY, LLC
FOR A CERTIFICATE OF SITE AND FACILITY
FIRST SUPPLEMENTAL PRE-FILED DIRECT TESTIMONY OF CAROL R. FOSS
ON BEHALF OF THE
AUDUBON SOCIETY OF NEW HAMPSHIRE**

October 11, 2012

Qualifications of Carol R. Foss

Q. Please state your name and business address.

A. My name is Carol R. Foss and my business address is 84 Silk Farm Road, Concord, NH 03301. My qualifications have not changed from my July 31, 2012 pre-filed testimony in this docket.

Purpose of Testimony

Q. What is the purpose of your testimony?

A. The purpose of this testimony is to provide comments on the Avian and Bat Protection Plan (ABPP).

Q. What comments do you have on “Corporate Policy on Avian and Bat Protection?”

A. My comments are as follows:

1.2 Corporate Policy on Avian and Bat Protection: Willingness of Antrim Wind Energy, LLC to work cooperatively with academic institutions as well as state and federal agencies and non-governmental organizations could further promote the reasonable protection of avian and bat species during all phases of the Project.

1.3 Purpose of the ABPP: Recommendations and guidance from the USFWS Draft Eagle Guidance should be included in the formulation of the ABPP. The adaptive management framework should include input from non-governmental organizations and academic institutions.

1.4 Goals and Objectives: The ABPP should be consistent with the USFWS Draft Eagle Guidance as well as the Final USFWS Land-based Wind Energy Guidelines.

2.1 Federal and State Endangered Species Acts: It would be useful to provide information on how to locate the current list of federally listed species. This section needs to include an explanation of State and Global Ranks, what agency maintains that list (NH Natural Heritage Bureau), and clarify that threatened and endangered are legally defined while ranks are not.

2.2.2. Bald and Golden Eagle Protection Act: This section should state that at the present time, the USFWS is issuing no incidental take permits for Golden Eagle east of the 100th meridian.

Table 2: Breeding Bird Species Identified Within the AWE Project Vicinity: It would be useful to indicate which species in this table have been documented to experience fragmentation effects on territory establishment or nesting success. Correct scientific names should be provided for Eastern Wood-Pewee and Pileated Woodpecker.

5.1.2. Diurnal Raptor Migration Surveys: It would be useful to include a table of spring and fall hourly passage rates for the seven species of conservation concern.

5.3 Potential Project Impacts to Birds and Bats: The criteria for identifying “species of habitat fragmentation concern” needs to be described. The statement that “no species of habitat fragmentation concern is known to occur” needs to be justified, including citations.

5.3.1. Potential Impacts to Birds: This section needs to include a discussion of potential impacts on the Common Nighthawk, a state-endangered species which was documented in the vicinity of the Project site, and which has experienced turbine-related mortality at a New Hampshire wind facility.

6.1.1 Protect Siting and Design Structure Layout and Design: This section should discuss how risks to migrating raptors were considered and minimized.

Turbine and Met Tower Lighting: This section needs to be revised to conform to the terms of the agreement with the Appalachian Mountain Club.

6.1.2 Project Construction and Maintenance: Tree Clearing Avoiding tree-clearing until after August 1 would be more effective in avoiding mortality of nesting birds and their young.

7 Post-Construction Evaluation and Management: Post-construction evaluation and management needs to include Tier 4 studies for Common Nighthawk nesting activity. Objectives during the Evaluation Phase should include an objective that specifically addresses Common Nighthawks and an objective of assessing potential risks to breeding species of conservation concern. The rigorous post-construction field evaluations during the Evaluation Phase need to include annual post-construction surveys for Common Nighthawk breeding activity in the immediate vicinity of turbine pads. It would be desirable for AWE to confer with knowledgeable parties from the non-governmental organization (NGO) and academic communities during the development of more specific management objectives at the conclusion of the Evaluation Phase.

7.1 Evaluation Phase Field Studies: These studies need to include a section on Common Nighthawk breeding activity, including at minimum a description of the risk, a protocol for surveys for breeding

activity on or in the immediate vicinity of turbine pads, and potential mitigation strategies to avoid mortality. The results and recommendations of these studies should be made publically available.

8.4 Additional Mitigative Actions for Birds: Operational mitigation may be needed to prevent Common Nighthawk mortality. A turbine-specific risk assessment for Golden Eagles should be conducted before concluding that no further operational mitigation for avian species is warranted.

9.1.1 Training: Training for appropriate personnel needs to include specific information on appropriate and timely response for injured wildlife.

9.1.1. Reporting: The annual ABPP summary report should be made publically available.

9.2 Immediate Alert Procedure: Injured wildlife require attention in less than 48 hours. Consultation meetings regarding biologically significant events could benefit from the inclusion of knowledgeable parties from the NGO and academic communities.

9.3.3 Phase 3 Consultation: Desktop Research and Recommendations: This effort should include consultation with appropriate scientists (i.e., individuals experienced with the species involved) from the NGO and academic communities.

Q. Does this conclude your comments on the Avian and Bat Protection Plan?

A. This concludes my comments on the Avian and Bat Protection Plan at the present time.