



COLORADO

Parks and Wildlife

Department of Natural Resources

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August 9, 2024

Sedgwick County Assessor

ATTN: Eva Contreras

315 Cedar St.

Julesburg, CO 80737

Econtreras@SedgwickCountygov.net

RE: CPW's Revised Comments on the National Renewable Solutions' Proposed Overland Pass East Wind Project, Sedgwick County (PZ-SU-2024-03)

Dear Ms. Contreras,

Thank you for the opportunity for Colorado Parks and Wildlife (CPW) to comment on the latest (5/31/24) proposal from National Renewable Solutions (NRS; Developer) and its consultant Westwood regarding the specific turbine layout for the Overland Pass East Utility-Scale Wind Project (Project). It is our understanding that Sedgwick County is requesting CPW's wildlife comments on this Special Use Permit Application since this 2024 application has increased the project acreage, is more specific about the maximum number of turbines, and provides more defined project plans. CPW commented on the 2023 application on 10/25/23. This letter largely reads similar to our 2023 letter, but similarly has more detailed recommendations for the additional specifics in NRS's 2024 application. CPW understands that all participating private landowners have executed either a land lease, wind or underground collection easement, or a participation agreement, including the State Land Board that has executed a wind planning lease. Therefore, CPW understands that this multi-phase Project will have a maximum of 310 turbines (609 feet tall) across 113,145 acres (an increase of 43,238 acres since the 2023 submittal) to generate at least 1,275 megawatts. This Project is now entirely proposed within Sedgwick County (as it removed the Phillips County portion), and its boundary extends from I-76 on the north, to Phillips County on the south, the Logan County line to the west, and the Nebraska state line to the east (Project Area). CPW further understands that this large-scale facility will have three collector substations and access roads, and will start Project construction in Q2 2026 and have the first phase's 103 turbines (400MW commercial offtake) with an initial commercial operation date of 9/15/27, though subsequent phases could be completed by Q4 2028. CPW understands that the majority of the Project lands have



Jeff Davis, Director, Colorado Parks and Wildlife
Parks and Wildlife Commission: Dallas May, Chair · Richard Reading, Vice-Chair · Karen Bailey, Secretary · Jessica Beaulieu
Marie Haskett · Jack Murphy · Gabriel Otero · Duke Phillips, IV · James Jay Tutchtou · Eden Vardy

dryland/irrigated cultivated crop farming, with a small percentage of the area dedicated to pasture/hay and occasional grassland/fallow ground.

We recognize that renewable energy development is important to meeting the State's greenhouse gas reduction goals and improving climate resiliency. CPW has a statutory responsibility to manage all wildlife species in Colorado; as such we encourage the protection of Colorado's wildlife species and habitats through responsible energy development and land use planning. The protection of core wildlife areas (particularly High Priority Habitats), big game winter ranges, and raptor nesting locations are of extreme importance to CPW.

The mission of CPW is to perpetuate the wildlife resources of the state, to provide a quality state parks system, and to provide enjoyable and sustainable outdoor recreation opportunities that educate and inspire current and future generations to serve as active stewards of Colorado's natural resources. CPW has a statutory responsibility to manage all wildlife species in Colorado, and to promote a variety of recreational opportunities throughout Colorado. One way we achieve this goal is by responding to referral comment requests, as is the case for this project.

THE IMPORTANCE OF HIGH PRIORITY HABITATS

Developers and permitting agencies can help avoid, minimize, and mitigate impacts to wildlife, specifically High Priority Habitats¹ (HPHs) from their projects by working with CPW. HPHs are defined as habitats where CPW has recent maps regarding sensitive wildlife use, plus scientifically-backed best management practice recommendations. HPHs are a subset of CPW's Species Activity Maps² that we collect and regularly update for a variety of species and their particular habitats. CPW provides these maps to the public and regulatory agencies for the environmental assessment and land use commenting on the proposed development of a given parcel, and general scientific research.

CPW appreciates the early consultation with NRS because it can proactively lead to discussing any High Priority Habitat and any subsequent species' surveys. That way NRS can use that information and creative siting opportunities to both plan a project that supports the State's energy policy goals and focus on ways to avoid, minimize, and mitigate any potential wildlife impacts. CPW further appreciates that NRS and their consultant conducted aerial raptor nest & grouse lek surveys, avian point ground counts, and bat acoustic surveys, as well as recording incidental wildlife observations. Based on those survey results and our follow-up meeting on 6/4/24, CPW has the revised recommendations below.

¹ https://cpw.state.co.us/Documents/Conservation-Resources/Energy-Mining/CPW_HPH-Map-Layers.pdf

² <https://hub.arcgis.com/content/190573c5aba643a0bc058e6f7f0510b7/about>

THE IMPORTANCE OF MAINTAINING A HUNTING ECONOMY

The conservation of Colorado's wildlife and their habitats is important to local economies and should be considered by permitting authorities when reviewing applications such as this Project. Per the Statewide Comprehensive Outdoor Recreation Plan (SCORP), specifically discussed in Appendix F: 2017 Economic Contributions of Outdoor Recreation in Colorado³, hunting had total economic contributions of ~\$1.0 million to Sedgwick County economies. Hunting also supported ~\$236,000 in wages in Sedgwick County's economy (reflecting approximately 11 hunting-related jobs). State and local taxes generated from these activities totaled ~\$132,000 in Sedgwick County. The popularity of hunting (plus other outdoor recreational opportunities such as fishing and wildlife watching) has increased since this report was produced (as reflected by sales in outdoor gear goods, hunting and fishing licenses, and state parks' passes), nor do these numbers include inflation over the last seven years. These numbers help support the importance of protecting HPHs and local economies for Sedgwick County and developers to understand the full context of CPW's specific recommendations that follow.

CPW's RECOMMENDATIONS

After an internal review of the current Project boundary based on multiple conversations with the Developer, CPW has identified likely impacted High Priority Habitats and areas of concern in the boundary:

- Greater Prairie Chicken Leks and Production Areas
 - Greater Prairie Chickens⁴ (GPC) were listed as a state endangered species from 1973 to 1993, when they were downlisted to a state threatened species. By 1998, GPCs were delisted to a state species concern species. Today, this species is not on the state's list and has a stable population with limited hunting opportunities. However, this species, like the other grouse and prairie chicken species in Colorado, have breeding grounds (AKA leks) that are very specific locations (vs. other birds that can breed generally anywhere). CPW has been successful in its recovery efforts for this species since we have been successful in working with developers and landowners to protect these very site-specific lek locations. After breeding, GPCs will nest in less-specific adjacent habitats. The continued protection of these lekking areas will dictate this species' population trends.
 - Therefore, CPW is concerned about six (6) turbines with close proximity (within the 0.6-mile lek buffer) of three leks (Leks 4-6), and has serious concern for Leks 4 and 5 that have higher GPC attendance (15+ birds) (see Tables 1-2 and Figures 1-3 below). CPW continues to recommend that those turbines should be moved outside of all the lek buffers (0.6-mile) or that the Developer use one of the alternative turbine locations further away. If a land use agreement is already in place for these turbines, then CPW recommends that those turbines

³ <https://cpw.state.co.us/Documents/Trails/SCORP/Final-Plan/SCORP-AppendixF-EconomicContributions.pdf>

⁴ <https://cpw.state.co.us/learn/Pages/SpeciesProfiles.aspx?species=greater>

are removed and the landowners are compensated similarly to ensure this lek can be sustained. Note, CPW's request is not to reduce the number of turbines nor the expected energy output, but to have those energy sources outside of critical HPHs, and to select one of the alternative turbine locations instead.

Table 1 - Observed GPC per lek

2022			
Lek ID	Species	Total Number Observed	Location
Lk001	Greater Prairie Chicken	10	Project Area
Lk002	Greater Prairie Chicken	8	Project Area
Lk003	Greater Prairie Chicken	20	2.2-mile buffer
Lk004	Greater Prairie Chicken	20	Project Area
Lk005	Greater Prairie Chicken	15	Project Area
2023			
Lek ID	Species	Total Number Observed	Location
Lk006	Greater Prairie Chicken	6	Project Area
Lk007	Greater Prairie Chicken	5	Project Area
Lk008	Greater Prairie Chicken	9	Project Area
Lk009	Greater Prairie Chicken	8	2.2-mile buffer
Lk010	Greater Prairie Chicken	7	2.2-mile buffer

Table 2 - Distance from the leks to the nearest turbine(s)

Updated Table - 7/11/2024			
Lek ID	Turbine ID	Turbine Distance to Lek in Feet	Turbine Distance to Lek in Miles
LK004	T070	941	0.18
LK005	T056	2,407	0.46
LK005	T057	965	0.18
LK006	T166	2,499	0.47
LK006	T167	1,935	0.37
LK006	T168	1,741	0.33

Figure 1 - Lek 4 with one turbine within the 0.6-mile buffer

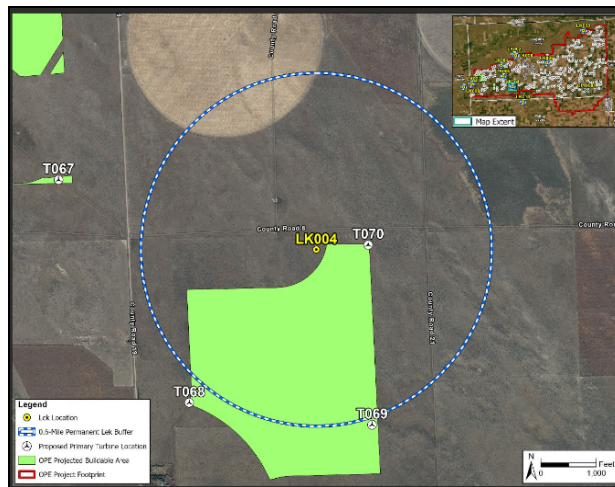


Figure 2 - Lek 5 with two turbines within the 0.6-mile buffer

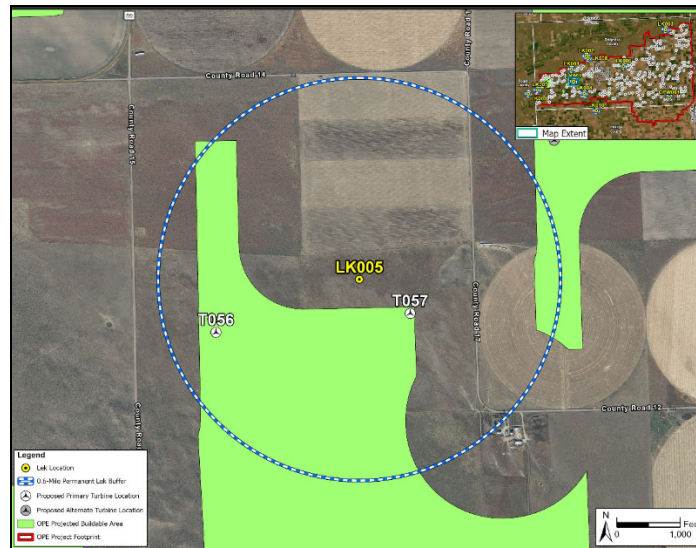
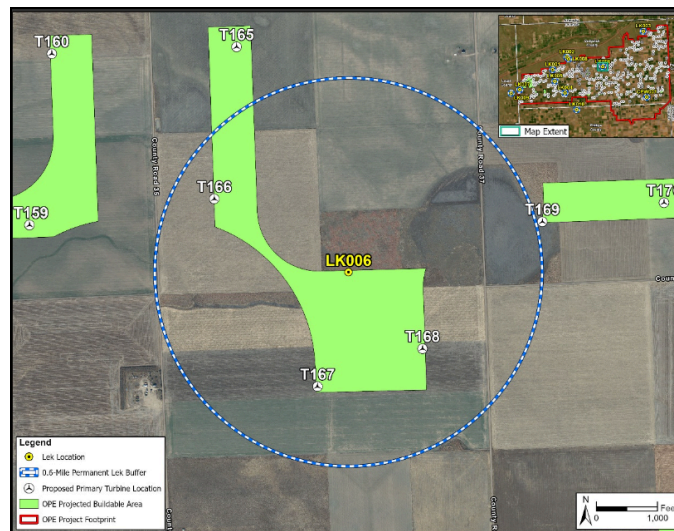


Figure 3 - Lek 6 with three turbines within the 0.6-mile buffer



- Furthermore, CPW counted at least 75 turbines within the 2.2-mile nesting buffer of the leks, which will likely result in the loss and fragmentation of nesting habitat due to turbines and access roads. CPW recommends that the County and Developer consider ways to offset this impact to nesting habitats.
- CPW does appreciate that the Developer completed helicopter surveys for GPC leks, and found ten new leks in addition to the one CPW-mapped lek in the Project Area.
- CPW further appreciates that the Developer is avoiding turbines in the majority of the leks (8 of 11), and is continuing to microsite these turbines and

potentially move some of them outside the remaining three 0.6-mile lek buffers.

- CPW recommends no turbines, access roads, or other ancillary infrastructure are located within 0.6-mile of any mapped or surveyed lek, and ideally outside the associated Production Areas (2.2 miles from a lek).
- Furthermore, CPW recommends that any new equipment, buildings, transmission poles, fences, or other ancillary features that have to be located outside the 0.6-mile of a lek, but within 2.2 miles of a lek, be constructed between July 1 and February 28, and have raptor perch deterrents installed in order to not attract the predatory raptors, crows, and ravens that prey upon Greater Prairie Chickens.
- For those underground transmission lines that are not in a road right-of-way but are located within the GPC Lek or Production Area Buffer, please construct them outside the GPC's nesting season (March 1 to June 30).
- Please ensure that any maintenance or eventual decommissioning also occurs outside the GPC's nesting season (March 1 to June 30) to the maximum extent practicable within the 0.6-mile lek and 2.2-mile Production Area buffers.
- CPW recommends that all proposed energy projects be assessed to avoid, minimize, or mitigate impacts on sensitive wildlife habitats and species in order to prevent loss of habitat or fragmentation of habitat. CPW has recently worked with one wind Developer to come up with a *voluntary* compensatory mitigation plan. Therefore, CPW appreciates NRS's willingness to explore a similar plan that may include conservation easements and/or habitat restoration/enhancement projects - that will be included after the county review. CPW would be available to assist in the development of a mitigation plan.
- Raptor nests - four NRS-surveyed Bald Eagle nests are located within the Project's 2-mile buffer, one CPW-mapped Ferruginous Hawk nest, and the 40 NRS-surveyed non-eagle raptor nests.
 - CPW appreciates that the Developer has moved the turbines outside the 1/3-mile nesting buffer for the three active/occupied Red-tailed Hawk nests.
 - CPW recommends consultation with the U.S. Fish and Wildlife Service (USFWS) and compliance with their Region 6 wind wildlife buffers⁵ when determining the location and timing of constructing those turbines.
- Burrowing Owls, Mountain Plovers, and other nesting migratory birds.
 - CPW appreciates that the Developer has assessed the Project footprint for prairie dog colony locations and that surveys will be conducted ahead of construction to determine the presence/absence of Burrowing Owls, a state-threatened bird. If Project development in prairie dog towns occurs between March 15 to October 31, the presence of Burrowing Owls and whether

⁵ <https://www.fws.gov/media/usfws-region-6-wildlife-buffer-recommendations-wind-energy-projects-2021>

they are actively nesting should first be determined. If nesting Burrowing Owls are present, no human encroachment should occur within 656 ft (200 m) of nesting burrows from March 15 to October 31. If Burrowing Owls merely occupy the site, it is recommended that earthmoving and other disturbance activities be delayed until late fall after they have migrated.

- Furthermore, as mentioned above in the USFWS wind wildlife buffers, please buffer any prairie dog towns by 500 meters from any turbine, as eagles and other raptors could feed the colony.
- Mountain Plovers are a state species of special concern. Therefore, as discussed in CPW's *Best Management Practices for Wind Farm Development*⁶, CPW recommends that NRS identify potential nesting habitats and any active Mountain Plover nests within the Project Area, and plan construction activity outside of critical nesting periods (April 1 through August 15). Mountain Plovers can nest in short-grass prairie, dryland cultivated farms, and prairie dog towns; all of which are located within the Project's boundary. Where active nests are identified immediately ahead of construction, CPW recommends that they should be generally flagged and apply the seasonal restriction of no human disturbance within 300 feet until the young are hatched and independent of the nest.
- Migratory Songbirds - CPW recommends that the Developer conduct all vegetation removal outside of the nesting season for migratory birds (April 1 to August 31). For any vegetation removal that must be scheduled between April 1 to August 31, CPW recommends that the Developer conduct nest surveys within two weeks of disturbance, and for any active nests install a 150-foot buffer until the young have fledged.
- Sand Creek is mapped as an Aquatic Native Species Conservation Water
 - Aquatic Native Species Conservation Waters are those waters used by sensitive fish species and buffered to 500 feet to protect the sensitive drainage from sedimentation. The Project's boundary also includes some riparian habitat, small drainage crossings, and wetlands. Therefore, CPW recommends minimal impact to any riparian areas or streambeds, both during construction and after, and any streambed should be handled as a stream crossing whether or not water is present at the time of construction. Minimizing impact to these streams is a priority for CPW, and avoidance is best whenever possible. Erosion and sediment control precautions should be in place to avoid deposition into waterways. Destruction of riparian vegetation and truck/heavy machinery stream crossings should be avoided. CPW further recommends crossing any tributary with a defined bed and bank (vs. a swale) at a perpendicular angle, in order to reduce impacts to downstream natural resources, as well as spanning the corridors with structures located outside the stream banks. If any wetlands

⁶ https://cpw.state.co.us/Documents/Conservation-Resources/Energy-Mining/CPW_Wind_Energy_BMPs.pdf

or defined beds and banks are likely to be impacted, the Developer should pursue any relevant permits with the Army Corps of Engineers.

- Playas

- There are several playas located within the Project boundary. CPW recommends that the Developer follow the Best Management Practices as put forth by the Playa Lakes Joint Venture⁷ and the recommendations developed by the Colorado Renewables and Conservation Collaborative⁸. Wet playas are important habitats for wetland birds and function as stopover sites for many bird species during migration. Turbine placement near these areas would increase collision risk for wildlife utilizing and transitioning to and from these unique habitat areas. In addition, construction methods and placement of turbines should be selected to avoid negatively impacting this habitat which is also important to amphibians, reptiles, and bats.

- Sand Draw State Wildlife Area

- Avoid construction during youth-mentor hunting seasons (September 1 to June 1). CPW also appreciates that turbines are currently sited at least one mile away from the exterior boundaries of this State Wildlife Area, which will help minimize hunting conflicts and impacts from nesting raptors and songbirds that may be using the State Wildlife Area.

OTHER BEST MANAGEMENT PRACTICES

As discussed above, CPW's *Best Management Practices for Wind Farm Development* are intended to provide general guidance for developers on several methods for avoidance, minimization, and mitigation of wildlife impacts. One key component to these Best Management Practices is CPW's recommendation for the use and utilization of a 'tiered' approach to project development as established in the U.S. Fish and Wildlife Service Land-Based Wind Energy Guidelines⁹ (2012) to quantify risks of developments to species of concern and their habitats.

Noxious Weeds and Native Re-seeding

One of the main Best Management Practices is the revegetation of disturbed soils and the control of noxious weed species through the development of a noxious weed management plan prior to initiating construction activities. The revegetation of disturbed areas and control of invasive weed species are important components of the project, and it is critically important that the site be restored back to the native plant community¹⁰ that currently exists on site. CPW prefers that native vegetation be retained on-site during the operational

⁷ <https://pljv.org/playas/renewable-energy-development-tools/>

⁸ <https://pljv.org/windandwildlife/co/crcc.php>

⁹ <https://www.fws.gov/sites/default/files/documents/land-based-wind-energy-guidelines.pdf>

¹⁰ CPW requests that the Developer use a CPW-approved Greater Prairie Chicken seed mix for the revegetation of any disturbed areas (with landowner permission).

lifespan of this Project, both as potential habitat for wildlife and to ensure successful reclamation of the Project Area, as noxious weeds could spread to adjacent habitats outside the Project's boundary. Therefore, CPW recommends that a noxious weed management plan be developed and regularly implemented to obtain at least 80% of native species and that the Developer use CPW's GPC seed mix (with landowner approval).

Transmission Lines

While not specifically tied to this Project, NRS discussed with CPW that an approximately 90-mile-long transmission line will be needed to tie this Project into the grid. CPW encourages new transmission lines to follow existing transmission lines or infrastructure corridors whenever possible to minimize additional impacts on wildlife and habitat fragmentation. CPW would like the opportunity to consult in more detail to help identify potential impacts for species in the eventual transmission line right-of-way area and recommended mitigation measures which, if enacted, should provide a measure to avoid or minimize impacts to wildlife. Of high concern regarding electrical transmission lines is the potential for raptor electrocution. Through the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act, the U.S. Fish and Wildlife Service, in cooperation with the Edison Electric Institute, has developed Best Management Practices to minimize impacts to avian species. CPW recommends that both the *Suggested Practices for Avian Protection on Power Lines, the State of the Art in 2006*¹¹ and the *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*¹² documents be consulted for proper design considerations to minimize raptor electrocution and for the lines to be constructed outside the raptor nesting season. Also, CPW recommends the installation of bird diverters within ¼-mile of any lake, drainage, or riparian area, and within the raptor nesting buffer for occupied nests.

Reporting Impacted Wildlife Species

In order to continue to understand the impact that a large-scale wind facility has on wildlife, CPW encourages the County to consider a Condition of Approval that NRS (or the operating company or its biological representative) regularly (every 2-4 weeks) conduct ground checks below the turbines to record any dead wildlife species associated with the construction or operation of this Project, and is removed immediately and reported to CPW within the appropriate time frame (e.g., eagles - ASAP; songbird - end of year report).

In closing, CPW recognizes that renewable energy development is important to meeting the State's greenhouse gas reduction goals and improving climate resilience. CPW has appreciated continued engagement as this Project has moved through the county permitting process, as well as the collaboration with Sedgwick County and NRS as we jointly strive for responsible energy development while protecting sensitive species and their habitats. This collaboration

¹¹ <https://www.nrc.gov/docs/ML1224/ML12243A391.pdf>

¹² https://www.aplic.org/uploads/files/11218/Reducing_Avian_Collisions_2012watermarkLR.pdf

should benefit the residents, wildlife species, and habitats in and around the towns of Julesburg, Ovid, Sedgwick, and within Sedgwick County, and support the State's energy policy goals.

If the timing or scope of this Project changes and/or if you have any questions regarding this letter or for future energy inquiries, please contact Brandon Marette (Northeast Region Energy Liaison) (303-291-7327; brandon.marette@state.co.us).

Sincerely,



Mark Leslie
Northeast Regional Manager

cc:

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- Lexi Hamous, Northeast Region Land Use Coordinator
- Todd Cozad, Area 3 Wildlife Manager (and Larry Conger as Acting AWM)
- Kyle Gordon, District Wildlife Manager (Holyoke/Julesburg)
- Wendy Figueroa, Area 3 Wildlife Biologist
- Marty Stratman, Area 3 Big Game Biologist
- Josh Herz, Area 3 Wildlife Technician