

Yellowstone Valley Audubon Society Commentary

Mud Springs Wind Development LLC:

Mud Springs, Pryor Caves, and Horse Thief Wind Projects;
Bowler Flats Energy Hub LLC

The development and use of renewable energy sources such as wind and solar power has much to be desired over use of fossil fuels such as coal and oil. Nonetheless, any industrial development has consequences for our environment and for living things. Obtaining good, adequate data, and using good sense, to evaluate and plan pre- and post-development situations can help avoid costly and disastrous consequences.

The Mud Springs Wind Development LLC/John S. Husar Project (Project) west of the Pryor Mountains south of Bridger, MT has not been adequately inventoried, evaluated, or planned with respect to wildlife or environmental impacts.

The Project will make a bunch of money if brought into production, but for every action there is a reaction – this Project will effect wildlife locally, regionally, and possibly legislatively. Without good, adequate data and study it is hard to determine the extent and seriousness of such effects.

Some of the many wildlife species using the Project area and surrounding area live there year round, some migrate through the area, and some use the area only seasonally or during certain years.

Golden and Bald Eagles, Sprague's Pipet, Long-billed Curlew, a wide variety of hawks, nesting birds, and Greater Sage-Grouse, as well as pronghorn (antelope), mule deer, bats, and other wildlife all use the Project area and surrounding areas. A number of these and other wildlife species in or near the Project are species of concern or "special interest" to the region, state, country, and world. Not everyone or every group is concerned about the survival of these species, but a weighty and growing number of people and groups are.

As one example of efforts underway to address these survival concerns and interests, Greater Sage-Grouse are being extensively evaluated and managed by many special interests including farmers and ranchers, as well as government agencies. These efforts, the likelihood of the continued survival of Greater Sage Grouse, and the likelihood of Sage Grouse being or not being 'listed' as threatened or endangered species, may be adversely affected by the Mud Springs Project and similarly ill-conceived projects.

In Montana, private land is held to a lesser standard for environmental analysis and protection than state or federal land. Many think that is a great thing. Many don't. One might argue that federal and state land is held to the correct standard to protect natural resources such as water, plants, and animals. One might also argue that state and federal land is discriminated against and circumvented with respect to potential income to the Montana school trust fund and to other public coffers. The Mud Spring Project deliberately excluded neighboring State School Trust Land and US Bureau of Land Management (BLM) lands to avoid requirements for detailed environmental evaluations

and planning. This adversely effects public coffers as well as environmental and wildlife values. Additionally, things can be done to natural resources, including wildlife, on private land that are illegal or at least much harder to do on public held land.

Permitting of major facilities such as the Mud Springs wind farm used to, and for some major facilities still does, require extensive study, public involvement, and government agency oversight for compliance with local, state and federal laws, etc. This Project apparently was permitted based on Carbon County Commissioner's evaluation and input from a few neighbors adjoining the property. The vast majority of the county, state regional, and national public was left out of the review and permitting process as were practically all state and federal agencies. US BLM, US Fish and Wildlife Service (USFWS), MT Dept. of Fish Wildlife and Parks (MFWP), etc. have nonetheless provided some input, and some caution's to the permittee and the County.

For example - BLM reported (9/16/14) to the Carbon County Planning office:

"The proposed wind power development map provided is almost entirely within, or adjacent to, Priority Protection Area (PPA) for sage-grouse habitat (as designated by the BLM) or a Core greater sage-grouse habitat area (as designated by the Montana Department of Fish Wildlife and Parks). There are 6 greater sage-grouse leks (breeding display grounds) located within 4 miles of the proposed wind turbine towers. Furthermore, recent telemetry research tracking radio-collared greater sage grouse has indicated this area is used as yearlong habitat by sage-grouse."...

The Montana Governor's Executive Order No. 10-2014 states that, "Wind energy development should be avoided in sage-grouse core areas. An exception may be made if it can be demonstrated by the project proponent using best available science that the development will not cause a decline in sage-grouse population" (page 18). Also, it is stated that, "New wind energy developments are not recommended within 4.0 miles of the perimeter of active sage-grouse leks, unless it can be demonstrated that the development cannot reasonably meet this setback and will not cause a decline in sage-grouse populations" (page 21).

Other resources on public lands, which could be impacted by this development, include several Species of Concern; such as golden eagles, peregrine falcons, long-billed curlews, mountain plovers, and several bat species."

USFWS reported Mr. Husar and Company:

"As was discussed in the meeting (July 21, 2014, USFWS and John Husar, Mud Springs Wind Project, LLC), we remain concerned regarding the following issues:

- The Service was not consulted regarding the current proposed project location, trust resource concerns, or proposed wildlife baseline surveys, and at this stage appears to have little opportunity to meaningfully influence macro or micro siting decisions;*
- The Service 2012 Land-Based Wind Energy Guidelines (Guidelines) do not appear to have been followed in proposed project siting;*

- *The proposed project is sited in a Montana Fish, Wildlife and Parks (FWP)-designated greater sage-grouse core habitat area, which is also considered a sage-grouse Priority Area for Conservation (PAC) by the Service. Greater sage-grouse are a candidate species for listing as threatened or endangered and would be considered a Species of Habitat Fragmentation Concern under the 2012 Guidelines. The Service recommends that no wind development or associated facilities be sited in core sage-grouse habitat.*
- *The proposed project has not yet fully characterized the potential risk to golden eagles.”*

Wyoming refused Mr. Husar’s proposal to build wind farms in Wyoming core greater sage-grouse habitat.

What is happening to Montana?

The Projects neighbors (“*human and otherwise*”*), neighboring and regional land managers, and many individual, public and private interests may be adversely effected by the Project and the Project manager’s business model. The Project repercussions to individual, local, state, regional, and federal efforts to repair the downward spiral of many wildlife species and their habitats may very well be severe. Again, not everyone or every group is concerned about this, but many people and groups are.

Doing things right comes at a price, but as has been proven throughout history - doing things otherwise can be and usually is vastly more expensive. Neighbors, voting decisions, legislation, and way of life, as well as wildlife, can be seriously affected by those that neglect or abuse their neighborly, community, and environmental responsibilities.

Not everything can or should be simplified to either “you’re for us or you’re against us, you’re an environmentalist or you’re an industrialist, you’re for jobs or you’re for ‘nature’, you are all red or you are all blue”. Most Americans see beyond such oversimplification and categorization and struggle to understand and do what is right, not wrong.

This Project seems brazen, spurning reasonableness, public involvement, and crucial-stage sage grouse and related negotiations.

As private land was carefully selected to be the only land used for siting the Project, Carbon County was the lead and virtually only Project permitting agency. The State of Montana issued a cursory permit for some handling of runoff and road crossings of runoff channels. Federal agencies were not involved nor invited in Carbon County permitting. Carbon County accepted a burden by permitting the Project – someone has to monitor the Project for compliance with the terms and conditions of the County permit, someone needs to enforce those requirements, and someone has to pay for that. A large responsibility for inspection, evaluation, regulation, enforcement, mitigation, and litigation has been permitted to be in Carbon County’s court.

Carbon County Permit requirements include:

“The ... operator shall coordinate with the Montana Sage Grouse Oversight Team and ...Habitat Conservation Program ... in Montana Governor’s Executive Order No. 10-2014) in its sage grouse mitigation.. and best management practices...”

In addition to the terms and conditions of the County Permit, Carbon County defines and applies a “Code of the New West” to its expectations and management of county residents, lands, waters, wildlife and other resources. That Code states such things as the following:

*RESOLUTION 05-20
CARBON COUNTY, MONTANA
CODE OF THE NEW WEST*

“The men and women who came to this part of the country during the westward expansion of the United States were bound by an unwritten code of conduct. Old West values like integrity, self-reliance and accountability guided their decisions, actions and interactions. Their survival depended upon their ability to cooperate with their neighbors -- attitude of collective responsibility to society and finding nonpartisan solutions to environmental problems and other important issues. ...

Owning rural land means knowing how to care for it. Continual stewardship and land management are essential elements of rural life. ...

Property owner associations are required to take care of common elements such as road maintenance, snow removal, weeds, open space, etc. A dysfunctional property owners' association or poor covenants can cause problems for you and possibly involve you in expensive litigation. ...

Nature can provide you with some wonderful neighbors. Most, such as deer and eagles, are positive additions to the environment.

IN CONCLUSION:

...Respect your neighbors' livelihood and property, and be aware that your actions may have an adverse impact on your neighbors, human and otherwise (emphasis added). ...*

CODE OF THE NEW WEST

As good citizens of Montana, we promise to:

- 1. Appreciate the splendor of Montana's natural beauty; the opportunity to live here; the quality of life we enjoy.*
- 2. Be a good steward of the land; to take personal responsibility for keeping our land weed and trash free.*
- 3. Show respect for our state laws, for wildlife, for the land and for the people ... especially those engaged in farming and ranching. ...*
- 9. Work together for the good of the community, county, state, nation and world.”*

Most conventional state and federal permitting laws and policies have been discounted by this Project. The County permit and “Code” seem to regulate at least some Project repercussions. Hopefully that regulatory responsibility is not handed off to the permittee. Some state and federal laws may wrangle with the Project if it becomes necessary in the future.

On behalf of Yellowstone Valley Audubon Society and many other groups and individuals, we hope the Project owners step up and do things right for Montana, wildlife, and the environment:

- E.g. adequately and fairly study the area, issues, and concerns before further Project construction;

- Stay out of core Greater Sage Grouse areas and comply with state and federal guidelines, policies, and laws with regard to Sage Grouse and other sensitive species and their habitats;

- Regulate turbine locations and seasonal use and take other steps as necessary to avoid and minimize impacts to wildlife and environment.

We also hope the landowner, neighbors, local, state, and national government and others help ride herd on this Project to minimize adverse effects to the people, land, and animals affected by the Project.

Please see yvaudubon.org for supporting documents and more details.

Yellowstone Valley Audubon Society, Board of Directors