

U.S. Fish & Wildlife Service
WIND TURBINE GUIDELINES ADVISORY COMMITTEE

Federal Advisory Committee Meeting

Department of Interior South
1951 Constitution Ave. NW
Washington, DC

October 21-23, 2008

-Meeting Summary-

On October 21-23, 2008, the Wind Turbine Guidelines Advisory Committee (FAC) convened its fifth meeting at the Department of the Interior in Washington, DC.

For copies of the slides presented at the meeting and Attachments referred to herein, please visit the U.S. Fish & Wildlife Service Web site at www.fws.gov/habitatconservation/windpower/wind_turbine_advisory_committee.html.

Meeting Objectives:

- Hear presentations from landowner panel; question and answer session
- Review Subcommittee progress and discuss next steps:
 - TOC/Outline of Recommendations
 - Scientific Tools & Procedures subcommittee
 - Existing Guidelines subcommittee
 - Other Models subcommittee
 - Legal subcommittee
 - Landscape/Habitat subcommittee
- Hear presentations from Iberdrola and Horizon, and an overview of the September 15, 2008, NREL workshop where the tiered approach was presented.
- Discuss milestones, timelines, and process steps to address additional items. Restructure subcommittees and form a writing group to take the FAC's work forward to January.

I. WELCOME AND OVERVIEW OF THE AGENDA

Dave Stout, *USFWS/Committee DFO and Chairman*, welcomed all meeting attendees and asked them to introduce themselves. Mr. Stout announced that FAC alternates were approved by the Secretary of the Interior (see list of alternates - Attachment B). Abby Arnold, *facilitator*, mentioned the groundrule that requires FAC members to keep their alternates informed about the FAC's progress so that they can be effective representatives at the table when called on. Ms. Arnold also encouraged anyone who wants to make a public comment to sign-up. All comments would be heard at the end of the day.

Ms. Arnold reviewed and the FAC approved the agenda (see Attachment C). The agenda was based around the reports that the six FAC subcommittees would give to the FAC on

their progress, questions, and next steps. Ms. Arnold noted that a major goal for the October meeting was to identify the approach to take in progressing with the Outline of Recommendations, formerly called the Table of Contents. The next step will be to begin incorporating the work of the subcommittees into a single document (a *one-text*) to review and edit at the January 2009 meeting. The FAC may also decide to reduce the number of subcommittees and create a new workgroup to prepare the *one-text*.

II. LANDOWNER PANEL

After introductions, Mr. Stout introduced and moderated a panel of invited landowners. He gave a background on the selection process for the panel participants. Considerable effort was made to find a balanced panel with perspectives from across the country. Mr. Stout made it clear that the landowners were not representing anyone's views but their own. The questions to which the landowners responded were developed in collaboration with the FAC Members.

Landowner Panel:

- Peggy Stolworthy: Idaho rancher – **see Attachment D**
- Rose Bacon: Kansas rancher, Tallgrass Ranchers – **see Attachment E**
- Bill Sproul: Kansas rancher, Kansas Livestock Association
- Joel Martin: West Virginia, farm owner
- Ned Meister: Texas, Texas Farm Bureau

Landowner Presentations: Questions to which the landowners responded in these presentations were developed with assistance from the FAC. The panel responded to the questions based upon their personal experiences as private landowners, and the views they presented are solely their own in opinion.

1. *In your experience with wind energy development, what are the benefits and impacts to wildlife and their habitats?*

In the opinion of one of the landowners, encroaching urban development poses a greater threat to wildlife than wind does. It was suggested that wind development can preserve land in a more pristine state than if it were developed in other ways. It is important, however, to make as much use of roads that already exist as possible.

This landowner further opined that in forested areas, wind development can have a positive impact because it preserves land that would otherwise be developed. Also, because wind turbines require small clearings in the forest, they might be considered to increase wildlife habitat because many animals utilize transitional areas such as clearings. Also, the impact of climate change on wildlife is very great, and anything to slow or reverse climate change will help wildlife. Rather than viewing the negative impacts of wind development on wildlife independently from their context, the landowner suggested that the FAC make recommendations to balance them with the benefits of replacing fossil fuel with renewable alternative energy. Other sources of energy also have impacts on wildlife, in addition to contributing to climate change.

Another landowner perspective was that the impact of wind development is greater than just the immediate site area, and can be a negative impact at least on tall grass prairie land. One landowner cautioned that open spaces are rare and development will always have impacts, so the wind industry should be careful. The prairies are often private property and it can be difficult to garner approval for developing wind there.

2. *How can USFWS guidelines be a useful tool to assist with and enhance the process of wind energy siting on private property?*

The landowners suggested that it would be very useful if the guidelines led to an increase in the number of legitimate studies that are done, by independent parties, to analyze wildlife impacts. One landowner suggested that the guidelines would be very useful if they provided an opportunity for technical assistance to landowners and helped them find out more about the impacts on their land and wildlife.

3. *When working with USFWS and State wildlife agencies to evaluate projects, what has your experience been with the agencies or other relevant entities? If you have not worked directly with USFWS or a State wildlife agency, what is your perspective on how wildlife agencies perform such evaluations?*

In the experience of one landowner, ten years ago the FWS would not have been allowed on many landowners' property, but today they would because they have since proven to be good partners. In the landowner's opinion, this was the result of a partnership program between biologists and private landowners. Several landowners on the panel shared similar experiences. There is the perception that wildlife agencies have put in significant effort to work through contentious issues with the communities involved.

4. *What opportunities exist for conservation easements? What are the trade-offs of agreeing to easements as opposed to continued operations such as farming or grazing?*

One landowner shared how they had agreed to a conservation easement and are very happy with the arrangement. The easement allowed grazing and ranching, but not commercial, residential, or industrial development. However, the landowner's opinion was that siting turbines on conservation easements is a mistake because this blurs the line between what is considered a conservation activity and what is considered development.

Another pointed out that there is a trade-off with conservation easements between giving up some rights, and ensuring that the land and its legacy will be preserved for future generations, in a way that might not otherwise be possible.

One landowner said that conservation easements are unnecessary in his region because so many wildlife programs already exist that compensate landowners for conservation. These can be preferable to easements because the landowners retain legal control of their land.

A suggestion was made to allow termination of a conservation easement if the easement ceases to serve a purpose. Another model that the FWS could consider is the USDA's Conservation Reserve Program.

5. *Overall, what would you recommend to the Committee regarding the protection of wildlife and their habitats related to wind energy development?*

One of the landowners emphasized that wind development does impact wildlife areas. However, she is not against its development anywhere, rather, just in certain rare and pristine areas. Since the wind industry wants to be seen as a reasonable and responsible energy source, they need to produce reliable, cost-effective energy, as well as be environmentally responsible. The mission statement of the FWS has served them well in the past, and she asked that they continue on this path. Another landowner also stated that there are valid concerns about wildlife with wind development, and that these need to be addressed. If the guidelines help address these valid concerns, then the wind industry will be better positioned to succeed.

One landowner recommended that the guidelines be area and site-specific, flexible enough to adapt to a specific site, and balance the benefits of wind power with the impacts.

FAC Question and Answer with Landowners:

A FAC Member asked what type of federal assistance the landowners would find most helpful. One of the landowners said that technical advice on wildlife management from state and federal agencies is very helpful.

There was a discussion of the landowners' views of the agencies in their areas. There is often mistrust of agencies until they become familiar and have earned the community's trust. Drawn-out lawsuits tend to create dislike of the agency involved.

A FAC Member asked the landowner panel if workshops on the FWS guidelines would be helpful. A landowner warned that the current interim FWS guidelines have been extremely divisive in her area, and a workshop would need to be carefully planned to the targeted audience. Others pointed out that workshops held in their states with the State Fish and Game Department were very useful. The landowners agreed that if workshops are planned well and in consultation with landowners, they are a good idea.

There was also agreement that legitimate studies by independent contractors who are familiar with the region are necessary before developing wind projects.

III. SUBCOMMITTEE PRESENTATIONS: OVERVIEW, QUESTIONS TO THE FAC, DECISIONS AND NEXT STEPS

A. TOC/Outline of Recommendations Report:

A. 1. Overview:

The content of the Table of Contents has evolved and will now be referred to as the Outline of Recommendations (see Attachment F). Comments from FAC Members have been incorporated into the current draft. Ms. Arnold clarified that the Outline of Recommendations is distinct from the outline that the Scientific Tools and Procedures Subcommittee is presenting, (see Section B below) and the FAC can choose which of these to adopt as the FAC's Outline of Recommendations.

B. Scientific Tools & Procedures Subcommittee:

B. 1. Overview:

Questions from the Scientific Tools & Procedures Subcommittee to the FAC:

- Does the FAC want to adopt the tiered approach?
- Does the FAC want Scientific Tools & Procedures to identify questions at each tier and which tools might be useful?
- How soon in the overall project development process should the FAC suggest bringing in wildlife questions?
- How firm should the lines be between tiers?

Taber Allison, *MA Audubon*, reported that the Scientific Tools & Procedures Subcommittee has developed a tiered approach to evaluating and minimizing impacts on wildlife (see Attachment G). If the FAC approves the Subcommittee's Outline, it could become the overall outline for the FAC's recommendations. This approach came in part from the September 15 National Renewable Energy Laboratory (NREL)/National Wind Coordinating Collaborative (NWCC) Wildlife Workgroup Workshop, which gave direction to the WEST, Inc team that was chosen to revise the '*Studying Wind Energy/Bird Interactions: A Guidance Document*' (also referred to as the "Methods and Metrics" document).

Summary of Presentation by Dale Strickland of the Scientific Tools & Procedures Subcommittee on the September 15 NREL workshop: see Attachment I for PowerPoint

Dale Strickland, *WEST, Inc.*, described the process of updating the wind/wildlife guidance document from 1999. The lead author of the 1999 document was Dick Anderson, *California Energy Commission*, who is also participating in FAC subcommittees as a technical expert. The NREL and the NWCC are leading the effort and selected the *WEST, Inc.* Team. Dr. Strickland is leading a team of other experts to update the document. The focus of the NREL workshop on September 15, 2008 was to create a formal framework for the updated document. The tiered approach to analyzing wildlife impacts from wind development was presented at this workshop in the context of risk assessment.

At the NREL Workshop three different approaches to analyzing impacts to wildlife from wind energy development were presented: adaptive management, structured decision making, and risk assessment. Adaptive management can be an efficient and logical approach when applied to existing facilities. It involves designing management experiments, assessing the results, and then modifying them accordingly. The second option, structured decision making, can be thought of as a formalization of common sense. The pros and cons of different options across a range of objectives are weighed against one another.

Dr. Strickland described the presentation on the third approach, risk assessment, which William Warren Hicks, *Ecostat*, gave at the NREL workshop. This method involves an a priori prediction of the likelihood of adverse consequences occurring. The tiered approach came out of this presentation. Risk assessments are initially done at a landscape level, with little information and conservative assumptions, and then move to higher "tiers" that

become more and more probabilistic and quantitative. There are also feedback mechanisms built into this decision making process. The first step in each tier is problem formulation and the identification of risks, and the second portion of each tier involves looking at options to address that risk. The benefits of the tiered approach are that it is flexible, it increases the consistency of the scientific process, and it is used in other regulatory processes.

A FAC Member inquired whether cost-benefit analysis is contained in any of these approaches. Dr. Strickland responded that this issue could be addressed through any of the approaches, and the FAC may indeed want to discuss the costs and benefits associated with wildlife issues. Dr. Strickland pointed out that the FAC process involves fitting wildlife issues into a wind developer's overall cost analysis. Another FAC member also mentioned that there may be benefits for the wind developer from protecting wildlife which should not be overlooked in the analysis of the costs.

Dr. Allison continued the presentation from the Scientific Tools & Procedures Subcommittee, explaining that the tiered approach provides a decision-making framework to help wind energy developers decide when to proceed with a project, when to stop, or when more information is needed in order to make one of those choices. Dr. Allison explained the flow chart the subcommittee created to describe each step and decision point in the tiered approach for the FAC (see Attachment H). Each subsequent tier demands more information, more resources, and a deeper evaluation, but is only used if needed. Therefore, not all sites will require Tier 4 or 5 studies, for example. Mike Azeka, *AES Wind Generation*, explained that developers terminate consideration of a site frequently, at any tier or stage in the process. The tiered approach is intended to follow the lifetime of the project, from pre-construction surveys to post-construction monitoring. Tier 1 is a regional or landscape level assessment, while the bulk of studies occur in Tier 3, and Tier 4 and 5 can be used to monitor Tier 3 predictions.

The Scientific Tools & Procedures Subcommittee is drafting questions to fill in the tiered approach and help developers assess their projects' effects on birds, bats, and habitat. If the FAC approves the tiered approach, the subcommittee can continue to develop questions to fit into each tier and draft text on how developers can evaluate the results of these questions. The Subcommittee is focusing the tiered approach exclusively on the interface of wind projects with wildlife, but the FAC was advised to keep in mind that wind developers must consider many other issues besides wildlife. Thus, some of these other considerations and steps may need to be dealt with prior to finalizing the FAC's recommendations.

There was discussion among FAC Members about how much should be expected of the developer in Tier 1 and the resources it is realistic to invest in a site assessment prior to a decision to develop there. The Subcommittee affirmed that Tier 1 is very preliminary and usually involves consulting available sources of information. One member pointed out that conservation organizations ought to help make this easier for the wind energy industry if possible, as developers can't be expected to voluntarily undertake studies if they aren't economically feasible. Another Member mentioned they find the tiered approach very similar to what wind developers are accustomed to, which may help with acceptance and implementation.

Members highlighted the importance of gaining understanding and acceptance of the FAC's decision framework at all levels of government. It may be very important for the FWS to educate people about the framework and process. Dr. Allison asked that the FAC discuss what to recommend for questions and studies assessing landscape-level impacts.

B.2. Decisions and Next Steps:

The FAC chose to adopt the tiered approach, and the Scientific Tools & Procedures Subcommittee will continue to frame questions for the problem formulation phase of each tier. They will also identify tools to address questions related to impacts from wind energy development on wildlife. The FAC is not currently going to address when wildlife issues should be brought in during the development of a site. However, part of the Subcommittee's task will now be to clarify the boundaries between tiers. The Synthesis Workgroup that was formed by consensus during this FAC meeting (See Section V. Page 13, Formation of Writing/Synthesis Workgroup) will incorporate and refine the tiered approach in the "one-text" preliminary draft of the recommendations, which they were assigned by the FAC to write.

C. Existing Guidelines Subcommittee:

C.1. Overview:

The Existing Guidelines Subcommittee inserted their work into the Table of Contents/Outline of Recommendations framework (See Attachment J). The subcommittee foresees that their work can easily be adapted to fit the tiered approach. Their next step will be to complete the text on mitigation and adaptive resource management. The subcommittee asked the FAC for any other questions, assignments, or input on the explicit goals for each section of their text.

Subcommittee member Greg Hueckel, *WA Department of Natural Resources*, highlighted the need for the recommendations to address the appropriate level, which he suggested should be a higher level, leaving the details to state and local authorities. Mr. Hueckel also urged the FAC to read their draft with an eye for the important policy issues throughout, so that these can be discussed. Mark Sinclair, *Clean Energy Group*, emphasized Mr. Hueckel's point, asking that the FAC's recommendations for guidelines remain as flexible and non-prescriptive as possible to allow local adaptation of the guidelines. Additionally, he asked the FAC and the FWS to help the subcommittee define what the role of compensation should be in the FAC guidelines.

C.2. Decisions and Next Steps:

Existing Guidelines will complete mitigation and compensation sections. A call will be scheduled for the following week to discuss next steps on mitigation, adaptive resource management, and compensation. Scott Darling, *VT Agency of Natural Resources*, will draft the adaptive management section. It was requested that the Legal Subcommittee clarify which aspects of mitigation are part of existing law and which stem from FWS policy. After these sections are completed, Existing Guidelines will be dormant, at least until January.

D. Other Models Subcommittee:

D.1. Overview:

Questions from the Other Models Subcommittee to the FAC:

- Does the FAC want to use the Avian Bat Protection Plan (ABPP) framework as one tool offered in the recommendations?
- If the FAC adopts the ABPP tool, who should develop the FAC's ABPP proposal?
- What is the legal and practical significance of developing an ABPP?
- What is involved in transitioning from a company-wide ABPP to a site-specific or tiered risk assessment?
- If case-by-case ABPPs are done, what will the administrative costs be?
- How can the ABPP avoid duplicating other guidelines?
- How can the ABPP accommodate local authorities and regulatory differences?
- How can small wind companies implement an ABPP?
- Does the FAC want to pursue Mark Sinclair's federal-state agreements as one concept to explore?

The Other Models Subcommittee reviewed different existing administrative or management frameworks for minimizing impacts on various media (air, water, and natural resources) to investigate how these approaches might offer solutions for wind development's wildlife impacts. The Subcommittee identified the features from these models that the FAC may want to adopt in some form (See Attachment K). The examples highlighted by the subcommittee come primarily from the Clean Air Act, and include its case-by-case project review, its repository for best management practices, and its New Source Review program.

The Subcommittee discussed whether the FAC should adopt the ABPP as one voluntary option that developers could use to help them follow the FWS guidelines (see Attachment L). FAC members noted that an ABPP does not replace the guidelines or the other, more traditional, approaches that can also be offered as supplementary tools.

Andrew Linehan, *Iberdrola*, and Al Manville, *USFWS*, presented and reviewed Iberdrola's newly drafted corporate Avian and Bat Protection Plan (ABPP; see Attachment #6c for PowerPoint). Mr. Linehan began by summarizing some of the main reasons why utilities have found the ABPP useful. An ABPP can be a helpful tool in complying with obligatory wildlife statutes because it provides structure as well as the flexibility to adjust and scale the plan to individual situations. Mr. Linehan went on to mention a few of the challenges in developing an ABPP, including applying it to existing facilities, and the question of whether it should be applied to individual projects or just at the corporate level (Iberdrola's ABPP presented here is a U.S. corporate-wide document).

Working with the FWS, Iberdrola took nearly a year to develop the ABPP. The Iberdrola team included staff from their development, operations, asset management, Environmental Health and Safety, and legal sectors, and the FWS review team included representatives from Migratory Birds, Law Enforcement, as well as field staff from Ecological Services. To write the document, Iberdrola applied the Avian Power Line Interaction Committee's 2005 Avian Protection Plan (APP) guidelines to the wind energy context. The main components of an ABPP involve preliminary site assessment, post-construction monitoring, mitigation and research, permit compliance, and implementation. Iberdrola plans on updating this ABPP after the FWS's revised guidelines are complete, and will continue to update the document thereafter.

Following Mr. Linehan's presentation, the FWS briefly discussed the evolution of an APP, including a partnership with the electric utility industry that began in the 1970's. Al Manville also explained that while the utilities have detailed toolboxes with options for addressing collisions and electrocutions with wires (called *Suggested Practices*), the wind industry presently lacks these tools – although options are improving with new research. Dr. Manville also reminded the group that he, Jim Burruss and Jim Lindsay had conducted a webcast on APPs to the National Wind Coordinating Collaborative in October 2007, and Burruss and Manville had done a briefing to the FAC in April 2008 on the APP template. Manville also commented that Iberdrola's corporate ABPP sets a strong industry standard for other companies to follow. He applauded Iberdrola's intention to work with FWS Law Enforcement to develop a voluntary mortality reporting mechanism, much like the existing confidential reporting web-based system that more than 33 electric utilities are presently using.

One issue the wind industry requested feedback from the FWS on is in regard to the Service's ability to provide protection under the Migratory Bird Treaty Act (MBTA) in exchange for implementation of an ABPP. Dr. Manville explained that FWS agents use their investigative and enforcement discretion, and prefer to spend their time dealing with blatant violations of the statutes. Partnership, he explained, is a key component, and this is generally all the certainty that the Service can currently provide regarding take under the MBTA.

The FAC discussed the case-by-case aspect of the ABPP, and whether the FWS supports this feature. Clint Riley, *USFWS*, mentioned during the Legal Subcommittee discussion (see Section E below) that while the FWS prefers to avoid a case-by-case approach because it would require a significant financial commitment, the FWS may be able to provide the necessary resources for case-by-case permits for implementing ABPPs. This distinction exists because of the higher level of certainty with an ABPP that the guidelines will be implemented. Further discussion concluded that the ABPP probably needs to be both company-wide and site specific, and the FAC may want to begin paving the way for use of site-specific plans. Iberdrola has not brought its ABPP for review at state and local levels, but Mr. Hueckel predicted that it would be well received there.

Despite the fact that the ABPP is best fitted to supplement FWS guidelines and provide a way of implementing them, some FAC members expressed concern that the ABPP may be duplicative of the guidelines. Another concern about the ABPP came from Rich Rayhill, *Ridgeline Energy, LLC*, who pointed out that the plan may shift risk towards the back end of a project. This would be especially problematic for smaller wind companies who can't spend as much money or take as many risks without knowing that a project will proceed at that site. It was suggested, however, that the ABPP may be directed primarily towards larger companies.

Mr. Sinclair presented two other documents to the FAC as his own suggested supplements the products from the Other Models Subcommittee. The first was a sample Memorandum of Understanding (MOU) between a state and the U.S. Fish and Wildlife Service (see Attachment N), and the second a MOU between a wind developer and the FWS (see

Attachment O). Mr. Sinclair hoped that the FAC would consider these as part of its discussion.

D.2. Decisions and Next Steps:

The Other Models Subcommittee elected to go dormant. However, a small group will develop further text on the ABPP for the FAC at the January meeting

E. Legal Subcommittee:

E.1. Overview:

Questions from the Legal Subcommittee to the FAC:

- What are the pros and cons of allowing protection under the Migratory Bird Treaty Act (MBTA) and the Endangered Species Act (ESA)? (issues include transaction costs, a slippery slope, and costs of administration)
- Does the FAC want to consider a short regulatory agreement such as a safe harbor agreement?
- Should agreements be developed with state and local agencies to implement the FWS guidelines?
- What is the role of FWS compensation policy under the MBTA?
- What are the options for wildlife, certainty, and feasibility of implementation?
- What should the FAC consider for non-trust species?
- Consider legal incentives for implementing the FWS guidelines

The Legal Subcommittee wrote a Legal White Paper on the potential legal implications of the FWS guidelines for the wind energy industry (see Attachment P). The paper focuses on the legal and regulatory requirements that wind developers must abide by, and how the FWS can deal with unintentional violations of these statutes. Ben Jesup, *DOI Solicitor's Office*, clarified that “unintentional” in this case means that wildlife impacts are not the purpose of the activity. Unintentional does not mean that the developer cannot legally engage in an activity if they are aware of a potential for negative side effects. “Unintentional” is also commonly referred to as “incidental.”

FAC Member Patrick Traylor, *Hogan & Hartson*, asked the FAC for comments and questions on each subsection of the Legal White Paper. He pointed out that the Subcommittee has not covered how non-trust species are protected, and instead focused on options for impacts to species protected under the MBTA and the ESA. The issue of addressing non-trust species in the FAC's recommendations may need to be discussed further by the subcommittee or by the FAC.

In response to a question about whether the FWS has authority under both the MBTA and the ESA to grant incidental take permits, Mr. Jesup responded that there is less clear authority for this under the MBTA than there is under the ESA. Mr. Riley discussed the levels of certainty that the FWS can provide for different types of legal incentives. He added that the FWS would like to hear from the wind industry about how much of an incentive each option would be for them, how much certainty is desired, and what would make it most likely for wind developers to comply.

Ms. Arnold summarized the three potential options for permitting that could be offered by the FWS, as outlined by Mr. Riley. The first of these were case-by-case permits, which would require a new regulation to administer. The FWS does not recommend this route because it would require commitment of substantial resources, though it does provide a large degree of certainty. The second option is a programmatic or nationwide permit, which provides less certainty because developers may find themselves unsure if they are covered by it or not. The third option is FWS acknowledgement of the use of best practices by developers. This may provide legal protection, dependent upon discretionary enforcement of laws. Mr. Traylor pointed out the two main criteria being used to evaluate these options: the level of certainty they provide, and the feasibility of implementation. One Member added that the impact on wildlife could be a criterion as well.

E.2. Decisions and Next Steps:

The Legal Subcommittee will draft text discussing the pros and cons for the various implementation tools and incentives under MBTA, ESA, Bald and Golden Eagle Protection Act, and the other relevant statutes. The goal will be to give this to the Synthesis Workgroup by the beginning of December.

F. Landscape/Habitat Subcommittee:

F.1. Overview:

Questions from the subcommittee to the FAC:

- Is their list comprehensive?
- Does the FAC agree to fold the Landscape/Habitat Subcommittee into the Scientific Tools & Procedures Subcommittee?

The Landscape/Habitat Subcommittee created a master list of the tools that are available at a gross level for evaluating landscape impacts and appropriately siting wind turbines (see Attachment Q). The Subcommittee also summarized a series of case studies (see Attachment R) in which some of these tools are analyzed. The Landscape/Habitat Subcommittee's goal is that these tools will allow a developer to better assess whether a project will have ecosystem impacts other than what might be revealed in a standard site assessment. The subcommittee would like to join with the Scientific Tools & Procedures Subcommittee in order to merge their tools with the others being discussed, and avoid overlap.

F.2. Decisions and Next Steps:

Rob Manes, *The Nature Conservancy, Kansas*, will incorporate the Landscape/Habitat work into the tiered approach framework, and send it this week to the facilitation team, *Kearns & West*. The Landscape/Habitat Subcommittee will be subsumed into the Scientific Tools & Procedures Subcommittee.

IV. OTHER PRESENTATIONS

A. Presentation by René Braud and Rob Manes on the Horizon Wind Energy/The Nature Conservancy Conservation Agreement – see Attachment S for PowerPoint

René Braud introduced Horizon’s project to the FAC, beginning with a description of the growing interest in wind development in Kansas around 2000. The Governor of Kansas had intervened with development in the first proposed development sites in order to protect the prairie. When Horizon found a new site in less pristine areas of Cloud County, the wind company began trying to offset their environmental impacts by working with The Nature Conservancy, who brought experience, and the Ranchland Trust of Kansas, who brought local trust and involvement. The result was the recently signed conservation agreement. The agreement focused on protecting the 13,000 acres of native grassland that lie within the 20,000 acre footprint of the Meridian Way Wind Farm. The agreement also includes future habitat restoration throughout the entire area, as well as monitoring the impacts of the wind farm and effectiveness of the agreement. Horizon and The Nature Conservancy are also encouraging the local community and farmers to contribute pieces of land to conservation. The conservation agreement is entirely voluntary and does not involve a permitting process.

B. Public Comment by Michael Fry from the American Bird Conservancy (ABC) – see Attachment T for written comments

The American Bird Conservancy proposes a moratorium on wind development in identified Important Bird Areas in the United States until the potential wildlife impacts from wind development in those areas are evaluated, and until there are better siting and operational techniques. Michael Fry, *the American Bird Conservancy*, suggested that a dynamic wind risk map be developed. Dr. Fry noted that the ABC approves of agreements such as the ABPP, but finds that some wind developers are not carrying out these agreements very seriously. Also, ABPPs should be adjusted to better address operational management. Iberdrola’s proposal for permanent radar onsite to detect migrations is an example of a very good operational technique to minimize impacts, providing it is coupled with short-term curtailment, and there are many others that could be used.

V. FAC DECISIONS/NEXT STEPS¹

In concluding the meeting, the FAC agreed on the following next steps:

- ✓ The FAC recommendations will be based on the tiered decision making framework proposed by Scientific Tools & Procedures Subcommittee
- ✓ The FAC agreed to continue to work on developing the ABPP framework as one potential tool that the FAC can recommend
- ✓ As part of the next phase of the process, there will be discussion and eventually decisions about the level of detail that the FAC should recommend the guidelines contain
- ✓ The FAC adopted the Legal White Paper
- ✓ Steve Lindenberg, *Department of Energy*, agreed to create a list of state wind energy outreach and education groups to share at the January FAC meeting
- ✓ Mr. Stout will send out the PowerPoint and one-pager about the FAC to all FAC Members for use when presenting their progress to other groups.

¹ The facilitation team is checking in with FAC members who weren’t present to confirm these decisions.

- ✓ Those who wish to attend the next FAC meeting should plan on meeting in Washington, DC from January 27 to 29. FWS will confirm these dates by mid-December.
- ✓ Status of Subcommittees:
 - Landscape/Habitat Subcommittee will be folded into the Scientific Tools & Procedures
 - Other Models is dormant
 - Existing Guidelines is dormant once the next step is completed.
 - Formation of Writing/Synthesis Workgroup and Incentives Subcommittee
- ✓ **Formation of Writing/Synthesis Workgroup:** The Synthesis Workgroup was formed by consensus and consists of six FAC members, two each from industry, wildlife conservation organizations, and state and tribal agency caucuses, as well as a representative for FWS. The members are Mark Sinclair, Kathy Boydston, Mike Azeka, Patrick Traylor, Rachel London, Taber Allison, Aimee Delach; Dick Anderson and Dale Strickland (resources), Cheryl Amrani (facilitator). The workgroup was tasked with synthesizing the materials written by the subcommittees and incorporating these materials into an initial rough draft of recommendations for discussion at the next FAC meeting.
- ✓ **Formation of Incentives Subcommittee:** Cheryl Amrani will facilitate. Members are Aimee Delach, Winifred Perkins, Andy Linehan, Rob Manes, Rich Rayhill, Steve Quarles.
 - Two brainstorming calls will be scheduled in late November or early December

VI. ATTACHMENTS:

- Attachment A:** Meeting Agenda
- Attachment B:** Participant List
- Attachment C:** Updated Alternates List
- Attachment D:** Landowner Presentation: Peggy Stolworthy
- Attachment E:** Landowner Presentation: Rose Bacon
- Attachment F:** Table of Contents Outline
- Attachment G:** Scientific Tools & Procedures Outline of Recommendations
- Attachment H:** Scientific Tools & Procedures Siting and Development Framework
- Attachment I:** Summary of the September 15 NREL workshop and the tiered approach Powerpoint; *Presenter: Dale Strickland, Wind, Inc.*
- Attachment J:** Existing Guidelines Subcommittee Report
- Attachment K:** Other Models Subcommittee Matrix
- Attachment L:** Recommendations for Use of an ABPP
- Attachment M:** Iberdrola Avian Bat Protection Plan (ABPP) Powerpoint; *Presenter – Andy Linehan, Iberdrola*
- Attachment N:** State-Federal Coordination Agreement
- Attachment O:** USFWS-Developer Coordination Agreement

Attachment P: Legal Subcommittee White Paper

Attachment Q: Landscape/Habitat Subcommittee Map Matrix

Attachment R: Landscape/Habitat Case Studies

Attachment S: Horizon/Nature Conservancy Conservation Agreement Powerpoint;

Presenters: René Braud, Horizon Wind Energy, and Rob Manes, TNC

Attachment T: Comments from the American Bird Conservancy; *Presenter: Michael Fry, ABC*