

October 20, 2019

To the Villenova Town Board,

I'm sure the board as lead agency is very much aware the process outlined in the 2019 SDEIS & SFEIS to evaluate *specific* environmental impacts from the Ball Hill Wind Project.

Additional information pertaining to birds and eagles, other studies, mitigation of projected impacts and details of an Eagle Management Plan (EMP) were included in the 2019 SFEIS.

However, collision risk modeling results (Stage 3 ECPG), a critical component to assess eagle mortality was not included. The developer followed the US Fish & Wildlife Service procedure over several years to gather data on eagles. Then didn't give the number of eagles that could be killed over the project life.

Evidently, the developer has those numbers, the results from collision risk modeling as stated on page 136 in the 2019 SFEIS but chose not to share them. Without these results how can the board make an accurate evaluation of eagle impacts and assess the efficacy of conservation measures the developer offered in the now provided EMP?

2019 SFEIS 3.3 ECPG Category pg. 136

Based on the Project location, the number of Bald Eagle nests within 10 miles (16 km) of the Project Area, and the results from Stages 2 and 3, while not requested or confirmed by USFWS it is possible that the USFWS would categorize the Project as Category 2 per the ECPG. A Category 2 site poses a high to moderate risk to eagles, but also carries a moderate to high opportunity to mitigate such impacts via implementation of avoidance and minimization measures (USFWS 2013).

Eagle Management Plan for the Ball Hill Wind Project Chautauqua County, New York

September 2019 pg. 111 SFEIS

The EMP follows the USFWS Eagle Conservation Plan Guidance Module 1 – Land-based Wind Energy (ECPG; USFWS 2013), although the Stage 3 collision risk modeling is not included in this EMP since an eagle take permit is not being pursued for the Project at this time.

The developer states they are not pursuing an eagle take permit, due to constraints and self-reporting of eagle kills, this permit is rarely sought by wind turbine companies. The board as lead agency on this project should absolutely require collision risk modeling results and completion of the USFWS-ECPG procedures to objectively evaluate eagle impacts under SEQRA, for transparency and protect against any consequence of underestimating eagle fatalities.

Sincerely,

Judy Phillips
Villenova Resident

Response:

As directed by the Court and Villenova Town Board, Ball Hill Wind Energy provided a thorough review of the potential impacts of taller turbines on eagles in SFEIS Section 2.1.2.7. This discussion and analysis includes an expanded review of what is currently known about taller turbines with respect to bird impacts generally, as well as potential eagle impacts. As discussed in Section 2.1.2.7, no difference in potential risk is anticipated for bald eagle from the proposed taller turbines, as compared with the turbines approved in 2016, based on their diurnal flight activity and minimal history of collisions in New York. As noted, there is only one previously documented eagle fatality associated with a New York wind project, despite more than 1,100 operating wind turbines in the state. The updated SFEIS also includes:

- An expanded section on project discussions with NYSDEC and USFWS, including permit condition #40 regarding bald eagles in the NYSDEC permit obtained for the project, specifying protocols that Ball Hill must follow during construction and operation, and
- An updated version of the Project's Bird and Bat Conservation Strategy / Eagle Management Plan, which, although they are typically privately held documents, have been provided to publicly demonstrate measures that will be taken to minimize potential impacts to bird and bats, including eagles.

Through this information, Ball Hill has fulfilled the directive to provide a review of the potential impacts of taller turbines on eagles.

Ms. Phillips' interpretation of language in the Eagle Management Plan (EMP) is erroneous. Section 3.3 of the EMP regarding potential eagle risk is based on the Stage 2 field surveys and the Stage 3 qualitative risk assessment described above in the SFEIS and in the EMP. Application for a Federal Eagle Take Permit through USFWS is voluntary and optional and was neither required nor recommended by the USFWS for Ball Hill. The Eagle Conservation Plan Guidelines (ECPG) are guidelines and not requirements, and the methods and approaches suggested in the ECPG are not mandatory even for projects that might elect to obtain an Eagle Take Permit. Ball Hill has elected to not pursue an Eagle Take Permit for the project at this time, consistent with most wind projects at this stage of development in New York. As such, the collision risk modelling included in Stage 3 of the Eagle Conservation Plan Guidelines ECPG was not conducted. Ball Hill is not aware of any proposed or operating New York wind projects that have obtained an Eagle Take Permit from USFWS and we are aware of only ~6 Eagle Take Permits that have been issued by USFWS nationally. Ms. Phillips' suggestion that Ball Hill must complete the optional Federal collision risk modeling as part of a SEQRA review is without merit.