

Appendix G



STANDING ROCK SIOUX TRIBE

TRIBAL HISTORIC PRESERVATION OFFICE

Administrative Service Center • North Standing Rock Avenue • Fort Yates, North Dakota 58538
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September 4, 2014

Mr. Matt Marsh
Environmental Manager
Western Area Power Administration
PO Box 35800
Billings, MT 59107

RE: Draft Environmental Assessment for the Campbell County Wind Farm

Dear Mr. Marsh,

The Standing Rock Sioux Tribe's Tribal Historic Preservation Office (SRST-THPO) is in receipt of a draft environmental assessment (EA) titled "Draft Environmental Assessment Campbell County Wind Farm, Campbell County South Dakota DOE/EA 1955" by the Western Area Power Administration and provides the following comments.

General Statement for the Environmental Assessment.

#1 While the SRST-THPO has no reason to doubt the sincerity of the EA as submitted by WAPA; we do doubt its integrity and validity. The SRST-THPO is of the opinion that this EA is substantively no different than the EA submitted by Fagan Engineering with minor revisions and a new title page listing WAPA as the author. The reasons for this opinion include, in at least two instances within the document, there exists wording that would indicate that it was written by someone other than the listed author. The first such instance occurs on page 9 Section 1.0 Introduction 2nd paragraph where it states:

This Environmental Assessment (EA) was prepared for Western under these regulations to describe the analysis of environmental effects of the federal action...

#2 If this EA was written by WAPA, as stated, this statement would read "This Environmental Assessment was prepared by WAPA". This immediately calls into question who actually wrote this document. This document is already under heavy scrutiny by the SRST-THPO due to the original document submitted by Fagan Engineering being an inherent conflict of interest under 40CFR1506.5. Fagan Inc. is a co-owner of the wind farm and the wind farm will be constructed under their subsidiary corporation Fagan Construction. The environmental review and documentation was originally to be

conducted by Fagan Inc. subsidiary company Fagan Engineering and an EA was submitted to WAPA prior to March 2014 by the latter company.

The second such instance occurs in the Cultural Resource Section page 64; first full paragraph on page under table 3.7-6 where it states:

A Standing Structure Survey and a Traditional Cultural Properties (TCP) Survey are currently under way. Results from this survey will be presented to, and used in consultation with, the SHPO and SRST.

#2

For this statement to be accurate and for WAPA to have actually written this statement it would mean that this EA was written by WAPA while the Renegade Services survey work was currently being conducted. Renegade Services was hired by the applicant to conduct a TCP survey and this work was completed on September 20th, 2013 and submitted to our office for review on March 4th, 2014. Renegade Services report is not included in the documentation for this EA but it is being incorrectly used as fulfillment of the tribal survey portion under the National Historic Preservation Act (NHPA) by WAPA. With all due respect, SRST-THPO does not accept the work conducted by Renegade Services to address our concerns for historic properties of significance to our tribe for this project. WAPA was not writing the EA at this time. Fagan Engineering was conducting the environmental review and documentation for this project up until some date after the meeting at the Standing Rock Sioux Tribe (SRST) office on March 28th, 2014 where the conflict of interest issue was brought up for the first time to WAPA. This EA was apparently written between the March 28th, 2014 meeting at the SRST tribal office and June 2014. The statement quoted above clearly indicates that it was written while surveys were still ongoing which occurred prior to the meeting at the SRST tribal offices at which time WAPA was reviewing the EA submitted by Fagan Engineering and not currently writing their own EA. On this basis alone the validity and integrity of this document is highly suspect.

As the SRST was the only tribe to consult on this project there has been no tribal survey work acceptable to us and we are certainly not aware of any ongoing tribal surveys at this time. Sisseton Wahpeton Oyate began consultation in this project after SRST requested to their THPO office that they should be involved.

#3

The SRST-THPO submits that this document is not valid owing in part to the fact that it is likely not written by who it claims to be written by and that, as such, it demonstrates a complete lack of regard for the law under which it was written. For additional support of our opinion that this document is not authored by Western please see our comments for the following sections and page numbers for the EA:

- Page 14; 1.2 Authorizing Actions; Table 1.2-1
- Page 14; 1.3 Agency Consultation and Public Participation; second paragraph
- Page 16; 2.2.2 Preconstruction Surveys and Studies; second bullet
- Page 19; 2.3.2 Wind Turbines, 1st paragraph
- Page 29; 3.1.1 Affected Environment; second sentence

#3

- Page 32; 3.1.2 Direct and Indirect Effects; third paragraph and subsequent bullets
- Page 50; 3.6.1 Affected Environment; Mammals, entire section

According to NEPA, per 40 CFR 1508.9 (a) (1), the Environmental Assessment will briefly provide sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI). This EA has failed in numerous regards to provide sufficient evidence that an EIS is not necessary for this proposed action and that a FONSI should be issued. It has completely failed to address any alternatives required under 42USC 4332 Sec. 102 (2) (C) (iii) and Sec. 102 (2) (E) by not providing any information on why the alternatives were not going to be discussed and the reasons which were do not hold up to scrutiny. The EA and the procedures followed by WAPA have been conducted in clear violation of NHPA by not conducting cultural resource inventories for historic properties of significance to tribes, in particular, to the Standing Rock Sioux Tribe. WAPA has also not provided any inherent need for the proposed action that differs from the no action alternative that could not be achieved in another suitable location of which such sites would be numerous throughout South Dakota per our comments. There is little to no discussion in any section as it relates to direct and indirect effects besides a cursory comment that it will be avoided while providing no plan that actually addresses this (in particular see the comments for wetlands where the entire section in the EA is based upon assumptions and not facts or formal delineations). The no action/build alternative clearly has less potential to impact the human environment but it will not be seriously considered as the way forward for this project.

#4

Specific information from the Environmental Assessment

Page 11; 1st Paragraph:

Wind and other renewables will play a large part in filling the energy gap left behind as climate change concerns continue to impact fossil fuel projects

This statement is misleading based on the source of the graph and presumably where this statement occurs. Natural gas observes the largest increase over time in an already large market share. This is fueled by low natural gas prices and shale gas exploration associated with deposits such as the Bakken. This graph does not take into account other factors that have recently developed in the Bakken area whereby, exemptions will no longer be permitted for flaring natural gas and this gas must be captured. This will skew this graph even more into a projection of natural gas dominance once it is taken into consideration and will diminish the size of all other portions.

#5

Page 12; First Paragraph; entire paragraph:

The demand for new sources of electricity does not necessarily mean a demand for wind generation. The increased demand for electricity could easily be met by the Natural Gas industry as already outlined in the figure on page 11. Natural gas is a secondary product of the extractive industry in which this entire paragraph refers to. North Dakota is requiring that exemptions not be issued for natural gas flaring and that this gas must be collected which will result in the development of

#6

#6 | infrastructure close to the extractive industry and will not rely on wind farms many miles away from where the electricity is needed.

Page 12; Second Paragraph; entire paragraph:

#7 | Please provide references for the study conducted by North Dakota State University so this statement can be fact checked to ensure it is accurate. What is the definition of a housing unit used in the study for instance? Currently, multiple people reside in one domicile in the Williston area yet this statement makes it seem like every single job created requires its own housing unit. People are living in their cars in the Bakken area as they work and do not have any electricity so this statement is misleading.

Page 13; 1.1.1 Applicants' Underlying Need; entire paragraph:

Campbell County Wind needs to develop, operate and maintain the generation infrastructure in order to develop the renewable wind resource.

#8 | The applicants' underlying need is not specific to any one place. They can achieve their underlying need anywhere in practically any state with good wind potential. The applicant has a power purchase agreement with Basin Electric to supply this electricity to the Bakken Area. Why ship this electricity to another state while maintaining that this statement is the underlying need for the applicant when it could be achieved at a suitable location closer to where the end product is destined for. There is no need to develop this proposed project in the chosen location when other suitable locations could just as easily be chosen closer to where the end product is going that would not affect some of the items that will be discussed further in this document.

Page 14; 1.2 Authorizing Actions; Table 1.2-1:

#9 | Why does this table differ from the table on page 27 which contains some of the same information and both deal with permits and approvals? This information should be the same as one of them contains erroneous information. Given the SRST-THPO questions about the authorship of this EA; this question further enforces our opinions as it appears that in one table someone understood who the appropriate contacts and agencies were and in the other someone did not.

Page 14; 1.3 Agency Consultation and Public Participation; first paragraph:

#10 | *Western has consulted with applicable State and Federal Agencies and Tribes in the development of this analysis. Western will consider comments to the Environmental Assessment from agencies, tribes, landowners and other interested parties.*

This statement is misleading. Western has only consulted with the Standing Rock Sioux Tribe for information pertaining to cultural resources and there is no way the minimal consultation and subsequent lack of identification efforts for historic properties of significance to the Standing Rock Sioux Tribe can be considered to have been conducted in good faith as required by 36CFR800.4. We have

#10 never been consulted on the development of this analysis and in fact were unaware that Western had taken over the environmental analysis from Fagan Engineering. Western has ignored the SRST-THPO comments as it pertains to historic properties of significance to our tribe that will be affected by this proposed undertaking and has no confidence that our comments for this EA will be addressed contrary to what has been written in this section.

Page 14; 1.3 Agency Consultation and Public Participation; second paragraph:

#11 *The meeting was attended by Western personnel, Dakota Plains Energy (CCW Developer) and Fagan Engineering LLC, the project Environmental consultant.*

Is Fagan Engineering still the project Environmental Consultant? It would appear from this statement that they are yet this would be a conflict of interest per 40CFR1506.5. Given the SRST-THPO questions about the authorship of this EA; this question further enforces our opinions as if it was written by Western as indicated the statement should have been amended to include "...the project Environmental Consultant at that time." By not including this statement it appears that the Environmental consultant is still in fact Fagan Engineering or it at least still was when this document was written.

Page 15; 2.1 Introduction; first paragraph:

The CCW project will encompass nearly 25,000 acres and supply the region with 99 megawatts of electricity, enough power for nearly 30,000 American homes.

#12 The project encompasses 25,000 acres yet apparently only a miniscule amount of that will be affected directly (permanent disturbance of 34.2 acres and temporary disturbance of 151.4 acres according to page 32 of the EA) which seems extremely misleading. Additionally, Table 2.1-1 on page 17 lists underground disturbance collection system disturbance to equal 282 acres. These numbers do not add up. In other projects where permanent disturbance has exceeded 2000 acres the applicant only required 10,000 acres for their footprint. Why are these numbers so low for the actual disturbance and so high for the footprint of the project? The cultural survey conducted by Beaver Creek Archaeology only encompassed the direct temporary effects of 151 acres therefore no consideration was given to any unidentified historic properties which lie within the 25,000 acreage that will be indirectly affected by this proposed undertaking yet this project will restrict access and could cause irreparable harm to them. Additionally, this acreage surveyed for direct effects does not equal the listed 282 acres for the underground collection system in Table 2.1-1 on page 17.

#13 The power purchase agreement with Basin Electric Cooperative is to supply this electricity to meet the growing demands in the Bakken oil fields in North Dakota. This statement makes it appear that the supply will be generated for local homeowners within the region when that is simply not the case. The Bakken oil fields are located in an entirely different state and are not near the development area.

Page 16; 2.2.2 Preconstruction Surveys and Studies; second bullet:

#14

A Class I cultural resources study (records review) and Traditional Cultural Property (TCP) study were conducted to evaluate and document the presence or absence of historical resources with respect to the proposed project.

This statement contradicts the statement on page 64 that traditional cultural properties surveys are currently under way. The Standing Rock Sioux Tribe was the only tribe to consult on this project and the Sisseton Wahpeton Oyate became involved in the project after our office asked their THPO to consult on this proposed undertaking with us. Once again, these contradictory statements and the timing required for these statements to be accurate within the EA continue to call into question precisely who authored this EA.

#15

The Standing Rock Sioux Tribe has been denied the opportunity to conduct identification efforts for historic properties of significance to our tribe by WAPA. WAPA insists that they cannot tell the applicant who they can and cannot hire to conduct surveys. However, WAPA is not fulfilling their responsibilities for a good faith and reasonable effort to identify historic properties including historic properties of significance to tribes as required by 36CFR800.4. Renegade Services was hired by the applicant to conduct a TCP survey and this work was completed on September 20th, 2013 and submitted to our office for review on March 4th, 2014. Renegade Services report is not included in the documentation for this EA but it is being incorrectly used as fulfillment of the tribal survey portion under the National Historic Preservation Act (NHPA) by WAPA. SRST-THPO does not accept the work conducted by Renegade Services to address our concerns for historic properties of significance to our tribe for this project. With all due respect, personnel for Renegade Services are not qualified to conduct survey work on behalf of the Standing Rock Sioux Tribe. By tribal resolution, only the SRST-THPO can make the determination of who represents our tribe in the field. WAPA is greatly overstepping their bounds by determining for a sovereign nation who can conduct work on our behalf or that any such work fulfills a sovereign nation's requirement for identification. The knowledge base and identification requirements are not the same across the board for all tribes as is being implied with the actions of WAPA on this project. The work conducted by Renegade Services was conducted by a member of the Turtle Mountain Band of Chippewa Indians. Chippewa is not Sioux and therefore the knowledge base and identification requirements for historic properties of significance to each respective tribe is completely different. The actions by WAPA and the applicant in hiring Renegade Services are essentially the equivalent of asking a dentist to conduct brain surgery. Both are doctors (tribes) yet their knowledge base and procedures (identification requirements) are completely different.

Page 17; Table 2.1-1 Campbell County Wind Farm Summary of Disturbances; 4th row:

Underground Collection System	38.5 miles 30m disturbance corridor 282 acres	Disturbance returned to pre-construction condition. No permanent impact.
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#16

The 282 acres of underground collection system disturbance is not accounted for in any other portion of this EA and is flatly ignored in other sections relating to disturbances both permanent and temporary. The SRST-THPO disagrees that this disturbance qualifies as no permanent impact. For example, if historic properties or other environmental impacts exist within the collection system right of way, they will not be returned to pre-existing condition and are therefore permanently impacted. Does WAPA believe that historic properties, once impacted, can actually be returned to their pre-existing condition as this statement apparently written by them seems to imply? The simple answer is no. Additionally, the underground collection system is permanent infrastructure and would need to be re-impacted if failure occurs along the lines. This by its very definition indicates that disturbance effects for this system are not temporary and they are not being accounted for within this EA in terms of cumulative effects for this project. Putting the dirt back over a collection does not mean that the effects of that underground collection system are complete.

Page 18; 2.3 Proposed Facilities, second paragraph, third bullet:

#17

Avoid unnecessary wetland disturbances, including 50-foot buffer from all wetlands not previously converted to agricultural use.

According to this EA (page 46 final paragraph on page), wetland delineations are assumption based off of maps and that no formal wetland delineations will be conducted for this project. How are buffer zones being established and enforced when the actual extent of wetland is not being determined? This amounts to little more than lip service for avoidance of wetlands as the Federal Agency has no idea if the buffer zone will adequately protect the wetland. WAPA is basically determining that a 50 foot buffer around an area is sufficient when in reality they have no idea if that buffer zone is really 10 meters away from the wetland or if the 50 foot buffer is contained entirely within the wetland and therefore nothing is actually protected.

Page 18; 2.3 Proposed Facilities, second paragraph, fourth bullet:

Avoid cultural and historic resources.

#18

Who identified historic properties of significance for the Standing Rock Sioux Tribe on this project and how are they being avoided? Who is determining an adequate buffer around any such sites as the SRST-THPO has not been consulted in regards to this and has erroneously not been allowed to conduct any identification efforts for their historic properties of significance to their tribe? Will this be the same buffer system as the one being enacted for wetland buffers which is little more than lip service that they will be avoided? As outlined previously in this document and with all due respect, the SRST-THPO does not accept the work conducted by Renegade Services to address our concerns for historic properties of significance to our tribe for this project.

Page 19; 2.3.2 Wind Turbines, 1st paragraph:

The Proposed Project will include construction of 49 wind turbines that will be constructed between the 3rd quarter of 2014 and the 4th quarter of 2015 and put into operation within that same timeframe.

#19

This timeline is extremely questionable as it relates to the authorship of this document and to decisions on the outcome of the EA before the EA has been issued for public comment. This EA was submitted for comment to the Standing Rock Sioux Tribe on August 4th, 2014 with comments solicited to be submitted by September 5th, 2014. In essence, this is the end of the third quarter going into the fourth quarter of the year yet the turbines will begin construction in the third quarter? This construction timeline would have been acceptable for a previous version of an EA such as the one submitted by Fagan Engineering in the 1st quarter of 2014 but does not make any sense to have included it in an EA where the 3rd quarter is pretty much over before review of the document even began. Once again, this issue further supports our opinion that this EA is not written by the listed author.

#20

The EA itself was apparently written between the months of April and June of 2014 and was not submitted for review until the third quarter was half over. This leaves absolutely no time for any comments to be addressed or a proper record of decision to be considered before construction is scheduled to begin and leaves the SRST-THPO with the opinion that the record of decision for this project is predetermined to be a Finding of No Significant Impact (FONSI). WAPA would be making an arbitrary and capricious decision on this document if this is the case and would be in violation of the Administrative Procedures Act by doing so. The current timeline of construction and operation outlined above also does not leave any time for an environmental impact statement to be conducted, should it be determined that one is necessary, for this project. This further supports our opinion that this project is predetermined to result in a FONSI before even asking for any comments.

Page 27; 2.7 Environmental Protection Measures, second paragraph; second bullet:

CCW will consult with interested tribes to develop additional measures to protect TCP's, such as protective easements, in agreement with underlying landowners.

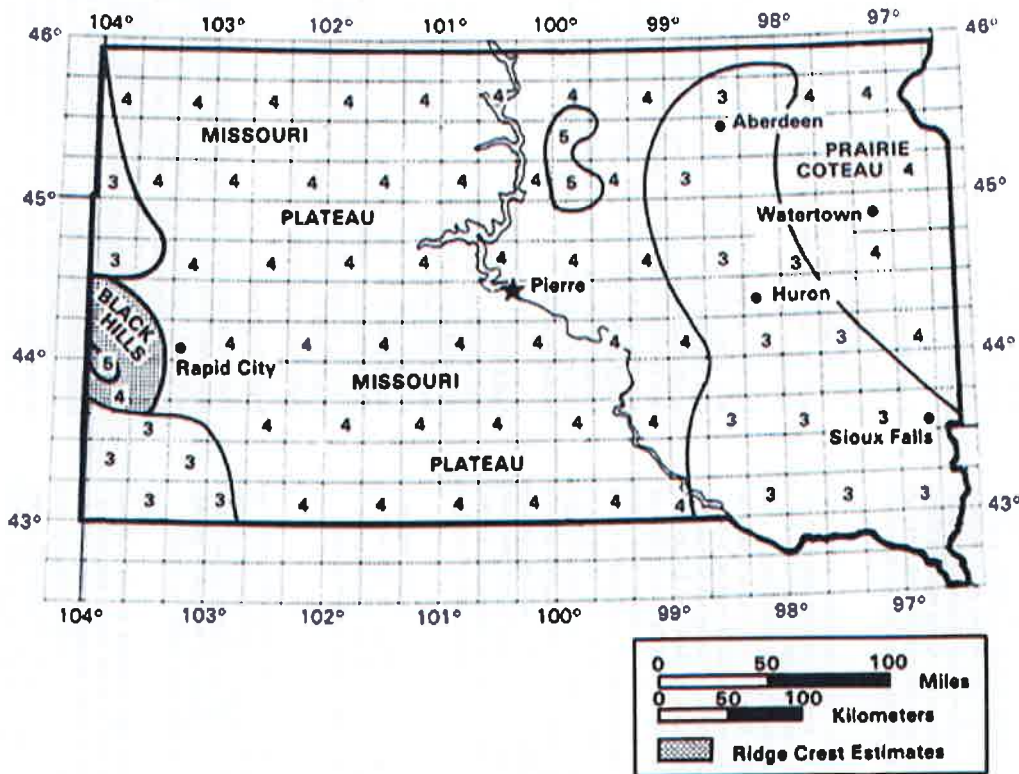
#21

WAPA has not allowed this to occur in the past. Fagan Engineering was told not to attend a meeting at the Grand River Casino on 8/23/13 without the Federal agency being present from the information that was told to us by telephone conversation with Dave Plagge of Fagan Engineering. WAPA has clearly stated that they cannot make an applicant hire a certain company to conduct surveys but denied the applicant the opportunity to discuss the Standing Rock Sioux Tribe issues pertaining to identification in the section 106 process. This is a clear violation of the NHPA process pertaining to consultation between applicants and tribes. Once again, WAPA overstepped their boundaries as a federal agency in determining who a sovereign nation is allowed to consult with on projects affecting their significant historic properties and violated 36CFR800.2 (c) (ii) (C) in doing so. This document all of a sudden requires consultation between the applicant and the tribes which WAPA did not allow in the past? Once again, this is purely lip service within the EA as WAPA's past actions on consultation for this project have directed the applicant away from consulting with the Standing Rock Sioux Tribe.

Please provide the documentation that any alternative locations were actually scrutinized by WAPA during the development of this EA. Alternatives were likely considered during Campbell County Wind Farm's selection for a final location for this proposed project which approximately five years ago but that has no bearing or significance on alternatives considered for the actual NEPA evaluations.

Please provide the documentation that a superior wind regime exists in Campbell County as the following graphic demonstrates that it is on par with almost the entire state of South Dakota. Wind regime of 3 is considered usable for industrial scale wind farms by the way. Each little box on this sheet is approximately 23 miles therefore Campbell County would be within a wind regime of 4 which occurs almost entirely over the entire state. The statement that this location represents a "superior wind regime to provide consumers with strong wind capacity at economic prices" is clearly not factual. There is only one consumer for this energy so marketing it as cost efficient for consumers is a fallacy.

#22



Source: <http://redc.nrel.gov/wind/pubs/atlas/maps/chap3/3-13m.html>

#22

There is absolutely no discussion of why these alternatives were eliminated as their arguments for choosing this location do not hold up to scrutiny. There are numerous locations throughout the state that could host such a wind farm and in areas where it would be on already-tilled land. Additionally, some of the poorest counties in the Nation not just the State occur within South Dakota so the argument of providing economic benefit to an area in need also does hold up under scrutiny due to their being other areas in greater need for an economic benefit that provide the exact same wind regime and contain just as much already tilled land owing in large part to agricultural activities much like Campbell County.

This EA has not seriously considered any alternative to this proposed action and it must under the regulations of NEPA per 42USC 4332 Sec. 102 (2) (C) (iii) and Sec. 102 (2) (E). The EA as currently presented does not present any feasible argument to ignore any other alternatives except to eliminate alternatives from discussion to achieve a FONSI for this proposed project.

Page 28; 2.8.2 No Action Alternative, third sentence:

If this alternative is chosen, the project would not contribute 99MW of renewable energy to the state's renewable portfolio.

#23

This project even if constructed does not contribute anything to the State's renewable portfolio as the electricity generated from it is not benefitting the State in any way. State renewable portfolio's place an obligation on electricity supply companies to produce a specified fraction of their electricity from renewable energy sources. Certified renewable energy generators earn certificates for every unit of electricity they produce and can sell these along with their electricity to supply companies. Supply companies then pass the certificates to some form of regulatory body to demonstrate their compliance with their regulatory obligations. None of this would occur within the State of South Dakota with the exception of the certificates issues to CCW which the supply company apparently also buys to demonstrate compliance with renewable energy reforms. The supply company in this situation is Basin Electric and they have bought this electricity for sale to consumers in North Dakota which is where the regulatory body who accepts those certificates would be located. There is no benefit at all to the State of South Dakota in terms of their renewable portfolio.

Page 29; 3.1.1 Affected Environment; second sentence:

The project area encompasses approximately 8,000 acres along the east side of Lake Oahe...

#24

Page 15 of this document lists the project area as being 25,000 acres. Why are there so many discrepancies in terms of numbers and facts within this document? This further enforces our opinion that this EA was not authored by who it is currently listed as since the number of acres would not have changed in the two months it took the federal agency to write this EA yet there exists drastically different numbers for the same portion of the project. It would make sense to have number discrepancies such as this if the project had changed in scope over time but certainly not within a 2 month period.

Page 32; 3.1.2 Direct and Indirect Effects; third paragraph and subsequent bullets:

#25
Underground electrical collection system lines are not temporary per our previous comments. Once again, these numbers are not the same as the numbers used previously in the document. For example, this section lists approximately 24 miles of underground electrical collection system yet it is listed as 35.8 previously in the document on pages 15 and 24. Once again, why are there so many discrepancies in terms of numbers and facts within this document? This further enforces our opinion that this EA was not authored by who it is currently listed as since the number of acres would not have changed in the two months it took the federal agency to write this EA yet there exists drastically different numbers for the same portion of the project. It would make sense to have number discrepancies such as this if the project had changed in scope over time but certainly not within a 2 month period.

Page 32; 3.1.2 Direct and Indirect Effects; General Land Use, entire section but mainly first sentence:

The area will retain the rural sense and remote characteristics of the vicinity.

#26
No. No it won't. This is a complete fabrication. Previously, people on the west side of the river would be able to only see agricultural land and a long undisturbed vista towards the East. This view shed will forever be destroyed by wind turbines in an operation range of 130 feet for every individual looking east along the Missouri river for miles in either direction.

Page 46; 3.5 Wetlands; entire section but the following quote requires in-depth review:

This analysis identified 32 NWI wetlands that may be considered jurisdictional wetland WUS (see table 3.5-2) resulting in an estimated 23.7 acres (less than one percent of the project area).

#27
23.7 acres is a little over 35% of the identified wetlands within the project area. Please specify which project area these numbers are based off of since there are currently two project area acreage numbers listed within the document. Minimizing the acreage of wetlands to an overall percentage relative to the entire project area and stipulating that it is less than one percent and therefore not a concern is very misleading. 23.7 acres is 15.6 % of the disturbed acreage at 151 acres being directly disturbed. 23.7 acres is 8.4% of the acreage being disturbed by underground collector systems at 282 acres. A proper analysis under this section would account for these numbers and not minimize the potential impacts this project will have to wetlands in order to push for a FONSI.

This entire section is based entirely on assumptions and formal delineations for wetlands will not be conducted therefore any analysis in terms of direct, indirect and cumulative effects in Section 3.5.2 and 3.5.3 are also based on assumptions and should be discarded from this analysis until such time as delineations are conducted as this contravenes the requirements of 40CFR1508. As this project has the potential to affect jurisdictional waters of the United States; will a permit be requested from the Army Corps of Engineers? If such a permit is requested what will be the base line data used for such a permit?

Page 47; 3.5.4 Mitigation Measures; entire section:

#28 Without formally delineating wetlands within the proposed project area; how is WAPA ensuring that boundaries and buffers are accomplishing their avoidance measures? What are the Best management practices that are going to be followed? Where is the storm water pollution prevention plan located for review?

Page 49; 3.6.1 Affected Environment; Habitat, fourth sentence:

Numerous Wetlands provide valuable habitat.

#29 How can the wetlands be numerous in this section as it relates to wildlife and migratory birds (a section of study contracted out by Fagan Engineering to a third party contractor) yet be less than one percent of the total project area according to the section on wetlands. Less than one percent certainly does not sound numerous which is what WAPA wrote for the wetland section to minimize the effects to wetlands.

Page 50; 3.6.1 Affected Environment; Mammals, entire section:

#30 The information contained within the Bat study was subcontracted by Fagan Engineering when they were the environmental contractor for this project. This information is contained within the Appendix and represents the results from a 2010 study. It is disingenuous of WAPA to not credit the original authors of this study throughout this study. In our opinion, this information was taken directly from the original Fagan Engineering document and further supports our opinion that WAPA did not write this document. In particular, it reference activities occurring in late August and October which are months that had yet to happen when this analysis was written by WAPA since they only got involved in writing this EA between March and June of 2014.

Page 51; 3.6.1 Avian Species, entire section:

#31 Why are species excluded from this list?

Page 55; 3.6.1 Avian Species, entire section:

#32 What is the Sand Lake Refuge and why is it being discussed here? Does this project impact a refuge somehow and if so why is this not discussed in the body of the document?

Page 56; 3.6.2 Direct and Indirect Effects, final paragraph:

#33 *Bat activity within the project site was lower than all published observations from region-similar facilities in Minnesota, Wyoming and Iowa.*

Why is this comparison done with Minnesota, Wyoming and Iowa and not to other wind farms within South Dakota? These regions and states are not similar at all. This is purposefully misleading to downplay the bat activity to areas that likely have a greater abundance of bats due to their climate,

#33

geography and landscapes. This is the equivalent of saying that polar bear activity is less frequent in South Dakota than in Alaska or that there are less Great White Shark sightings in South Dakota than in California. This statement within the EA is completely irrelevant.

Page 57; 3.6.3 Cumulative Effects, entire section:

If future wind development projects are a possibility as mentioned in this section why are they not being considered throughout the entire project as a cumulative effect. This would require an Environmental Impact Statement to fully evaluate. The Riverkeeper vs FERC decision of 2014 stipulates that all potential impacts must be accounted for and therefore if future wind developments are a possibility this EA would not suffice for NEPA compliance.

#34

The comparison data for impacts to birds and bats as being low is irrelevant as the data used for such comparisons has no real relevance at all to species and numbers within South Dakota. According to the proposed plans for mitigation, the construction company would be responsible for halting construction if they notice a species. This would be the same construction company owned by the part owner of the wind farm itself. WAPA somehow does not see this as a conflict of interest even though it clearly is.

Page 60; 3.7 Cultural Resources, entire section:

It is mentioned within the second paragraph last line that consultations conducted under section 106 must respect tribal sovereignty and the relationship between the federal government and the Indian tribes. It is odd that this comment is written within the EA when it was and still is completely ignored throughout the consultations for NHPA compliance.

#35

I have already addressed the comments that tribal surveys are ongoing previously in this response so will not rehash it. Please refer to Appendix A for issues concerning WAPA compliance with NHPA.

Page 63; 3.7.2 Direct and Indirect Effects, entire section and page 79; 3.9 Visual Effects; entire section:

Indirect effects would include visual effects to sites outside of the direct effect area. WAPA has continuously ignored our statements regarding this critical impact. WAPA has also been requested by the SHPO of South Dakota to account for these effects as well before any concurrence for this project will be issued by them. The SRST-THPO has repeatedly stated that sites of significance to our tribe will be affected on the western side of the Missouri River and WAPA has done absolutely nothing to address this indirect effect. These sites have been and continue to be used by traditional practitioners of certain spiritual walks of life. This proposed project would have serious and detrimental effect to all of these people yet WAPA continues to ignore it as it was not part of the study conducted by Beaver creek archaeology or Renegade Services.

#36

If you have any question regarding these comments please contact Waste'Win Young –Tribal Historic Preservation Officer (wyoung@standingrock.org) and Terry Clouthier – Tribal Archaeologist (tclouthier@standingrock.org) or by phone at (701) 854-2120.

Please refer to THPO file # 14-14 for this project.

STANDING ROCK SIOUX TRIBE

A handwritten signature in black ink, appearing to read 'Terry Clouthier', with a long, sweeping horizontal flourish extending to the right.

Terry Clouthier

Tribal Archaeologist



STANDING ROCK SIOUX TRIBE

TRIBAL HISTORIC PRESERVATION OFFICE

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Appendix A

Matt Marsh
Regional Environmental Manager
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59107-5800

September 5, 2014

My name is Waste' Win Young. I am the Tribal Historic Preservation Officer for the Standing Rock Sioux Tribe.

The following comments are submitted on behalf of the Standing Rock Sioux Tribe—Tribal Historic Preservation Office (SRST THPO) for “Cultural Resources” portion Section 3.7 through 3.7.5 for the *Draft Environmental Assessment (EA) for the Campbell County Wind Farm*.

Background

The Standing Rock Sioux Tribe was the only tribe to consult with Western Area Power Administration (WAPA) on the Campbell County Wind Farm. The SRST THPO found out about this project through radio ads. The SRST THPO initiated consultation with WAPA after contacting the applicant inquiring about (and confirming) federal agency involvement.

This proposed wind farm is on land that is adjacent to the Standing Rock Sioux Indian Reservation directly east along the Missouri River. This is an area that has documented Yanktonai Dakota camps, historic sites, vision quest sites, altars, and sun dance grounds. This area also has Arikara camps and sites. These sites have been documented for over a hundred years.

There are documents (emails attached) that indicate the Standing Rock Sioux Tribe-THPO initiated consultation with WAPA regarding this project. These documents also indicate that the SRST THPO attempted to work with the developer to meet face to face regarding identification plans for this project but were stymied by WAPA.

In August of 2013 we contacted the applicant Mr. Dave Plagge (Fagen Engineering) in Granite Falls, Minnesota to schedule a meeting with them regarding a Section 106 Tribal Identification Survey for the Campbell County Wind Farm. He did email back confirmation of this meeting (please see attachment #1).

The following morning Mr. Plagge and I spoke on the phone. He stated that he had talked to Dave Kluth (WAPA) and was informed by him that he could not meet with us without the Federal Agency being present. Dave Kluth also declined the invitation via email. We had hoped to initiate our plans for identification efforts for the Tribal Survey for the Campbell County Wind Farm.

On November 19, 2013 the SRST THPO was asked by Steve Tromly (WAPA) why we did not attempt to sit down with the applicant to work out a plan for a Tribal Identification Survey. I told him that we had planned to but Mr. Plagge was informed by Dave Kluth not to. (Please see attached documentation)

On November 19, 2013 WAPA informed the SRST THPO that the Tribal Survey had been completed by the Turtle Mountain Band of Chippewa and that “it had been completed two weeks ago.”

The Standing Rock Sioux Tribe was excluded from participating in identification efforts under the Section 106 NHPA process. The tribal survey for the Campbell County Wind Farm was conducted by Mr. Brady Grant of the Turtle Mountain Band of Chippewa. The Tribal Survey that was conducted by Mr. Grant accounts for identification efforts for *their* tribe. It does not fulfill the Section 106 identification efforts for the Standing Rock Sioux Tribe

Federal agencies must consult with tribes. This has been established by early Supreme Court decisions, Executive Orders, and statutory laws. The Federal government cannot diminish tribal treaty rights. Consultation is a means for actualizing the “Federal trust doctrine.” The Federal trust doctrine has established through Supreme Court decisions that the United States government has a legal and moral obligation to assist and protect Indian tribal sovereignty, resources, and cultural properties.

In Northern Cheyenne v. Hodel [12 Indian L. Rep. 3065 (D. Mont. 1985), 851 F.2d 1152 (9th Cir. 1988) (review of injunction)], the court required a supplemental environmental impact statement on cultural and other effects to the tribe. The court cited the Federal trust doctrine, upholding the statutory obligation the United States has to tribes.

WAPA has a trust responsibility with Native American tribes, as well as all other federal agencies.

#37

In section 3.7.1 under Affected Environment the draft EA states that, “ a search of the South Dakota State Historical Preservation office database identified four sites, two cemeteries, eight surveys and fourteen standing structures surveys performed in the vicinity of the project site (one-mile buffer).” Nine cultural resource reports were researched within this project area. These surveys were completed for a variety of development that range from telecommunication cables, pipeline/tank placement, water lines, and stabilization projects. There are no reports—cultural inventories or tribal inventories that were completed for cultural properties that may be significant to tribes. This fact supports even more so, that a tribal survey be mandatory for areas where tribes traversed, inhabited or prayed at.

#38

The Class III that was completed by Beaver Creek Archeology lists two sites consisting of stone features (39CA285) and (39***). These two stone features are listed as potentially eligible. Under the NHPA, the tribes have a right to assist the federal agency in making an eligibility determination. To my knowledge that has not been completed.

#39

Under 3.7.2 Direct and Indirect Effects in the second paragraph it states, “Indirect effects may include the disturbance of untilled land to make up for loss of cultivated area. In extreme cases this may include removal of vacant farm sites, including structures potentially eligible for listing in the NRHP, or disturbance of Traditional Cultural Properties.” Can you please clarify what this means?

#40

Under 3.7.3 Cumulative Effects it states, “Current industry standards include avoidance of all cultural resource sites; therefore, no cumulative effects are anticipated.” Does the inclusion of this statement mean that the proponent has adopted industry standards for this project? The way it is written it is simply stating an industry practice.

#41

Under 3.7.5 No Action Alternative it states in the second paragraph that the need for this project would still exist under the No-Action Alternative. “If this project is not approved it may result in another project being constructed that would not require an interconnect with Western.” Is this why the proponent threatened to suspend the project (which WAPA said could be done for up to three years) and led the tribal staff and legal department to believe this at an April 2014 meeting here at Standing Rock, but in reality was still continuing to work on the NHPA and NEPA analysis? Is this allowable under the federal regulations?

The SRST has been unfairly excluded from participating in the Section 106 identification process. WAPA has been adversarial in our efforts to participate in the federal process and in our efforts to move forward. WAPA has continually tried to hide behind the regulations in an effort to conceal their wrongdoing—whether intentional or not. This ranges from hiring the applicant to write the Environmental Assessment for this project, to cancelling meetings between the agency, applicant and tribes (August 2013); to not complying the NHPA by excluding the only tribe that responded to consultation efforts.

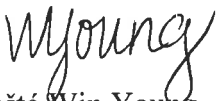
The SRST THPO will continue to request to participate in Section 106 identification efforts to fulfill the Section 106 mandate of the NHPA for the Campbell County Wind Farm and Sunflower Wind Farms--despite our repeated unsuccessful attempts to reach someone in the hierarchy who has the power to intervene and assist us.

The THPO submits these official comments for the *Draft Environmental Assessment (EA) for the Campbell County Wind Farm* on behalf of the Standing Rock Sioux Tribe.

If you have any questions you may contact the SRST THPO Office at 701-854-2120.

Sincerely,

STANDING ROCK SIOUX TRIBE



Wašté Wiŋ Young
Tribal Historic Preservation Officer

cc: SRST Chairman Archambault II
SRST Tribal Council
Mike Boots, Council on Environmental Quality
Carol Borgstrom, NEPA Director, Department of Energy
Secretary Moniz, Department of Energy
Raina Thiele, Associate Director of Intergovernmental Affairs and Public Engagement,
White House
Sarah Harris, Chief of Staff to the Assistant Secretary, Department of the Interior
David Conrad, Director of Tribal and Intergovernmental External Affairs
Tracy Toulou, Director of Tribal Justice, Department of Justice
U.S. Senate Committee on Indian Affairs:
Senator Jon Tester (MT), Chairman
Senator Maria Cantwell (WA)
Senator Tim Johnson (SD)
Senator Tom Udall (NM)

Senator Al Franken (MN)
Senator Mark Begich (AK)
Senator Brian Schatz (HI)
Senator Heidi Heitkamp (ND)
Senator John Barrasso (WY)
Senator John McCain (AZ)
Senator Lisa Mukowski (AK)
Senator John Hoeven (ND)
Senator Michael Carpo (ID)
Senator Deb Fischer (NE)

Campbell County Wind EA (DOE/EA-1955)
Response to Comments

Response to Comment 1

The draft Environmental Assessment (EA) was released for public comment on Aug 4, 2014. At a meeting on March 28, 2014, between Western Area Power Administration (Western) personnel and the Standing Rock Sioux Tribe Tribal Historic Preservation Office (SRST-THPO) personnel, a SRST-THPO representative requested a copy of the EA. A copy was provided with the understanding that this was a working copy and not the draft EA. The differences noted between the working copy EA and the draft EA reflect additional information to environmental studies, new information on endangered species, comments from the US Fish and Wildlife Service, Western internal review, reformatting several tables, and corrections of grammatical errors.

Response to Comment 2

Western conducted an internal review of the document and takes full responsibility for its content. The usage of consultants for the preparation of an EA is allowed by 40 Code of Federal Regulations (CFR) Section 1506.5 and 48 Federal Register 34263 (1983). 40 CFR 1506.5b states that for an EA: “If an agency permits an applicant to prepare an environmental assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment.” One of the purposes of the Western internal review is to accomplish an evaluation of the environmental issues and take responsibility for the scope and content of the EA. To clarify responsibilities, a table will be added in the appendix showing the list of prepares, company affiliation, and responsibilities.

Response to Comment 3

See the response to comment 2.

Response to Comment 4

The Department of Energy (DOE) NEPA implementing procedures at 10 CFR 1021, subpart D, prescribe the appropriate level of NEPA review for proposed actions. Appendix C to subpart D lists classes of actions that normally require EAs but not necessarily EISs. Among the categories of actions listed in Appendix C is category C7, which includes “*the interconnection of...new generation resources that are equal to or less than 50 average megawatts*”. Western began the NEPA review of the proposed project as an EA in accordance with the implementing regulations.

As stated in 1.1.2 of the EA:

“Western’s purpose and need is to consider and respond to the interconnection request in accordance with its Open Access Transmission Tariff (Tariff) and the Federal Power Act. Western’s Tariff is filed with the Federal Energy Regulatory Commission (FERC) for approval.

Under the Tariff, Western offers capacity on its transmission system to deliver electricity when capacity is available. The Tariff also contains terms for processing requests for the interconnection of generation facilities to Western’s transmission system. In reviewing interconnection requests, Western must ensure that existing reliability and service is not degraded. Western’s Tariff provides for transmission and system studies to ensure that system reliability and service to existing customers are not adversely affected by new interconnections. These studies also identify system upgrades or additions necessary to accommodate the proposed project and address whether the upgrades/additions are within the project scope.”

Please note that Western’s purpose and need under this EA is limited to the consideration of approving or not approving a transmission interconnection request. Western’s purpose and need does not include the generation of electrical power. Since the interconnection request can only be approved or not approved, the logical range of alternatives is limited to two: approved, or not approved. In this case, if approved, the operational interconnection agreement to be executed would include Western building, owning, and operating a small switchyard at the interconnection location to accommodate the physical interconnection.

Western does not and cannot involve itself in the development, siting, or design aspects of privately held generation facilities on private land. It should also be understood that alternatives to locations, turbine designs, and other technical aspects of a project that may have been considered and eliminated by private developers for private generation projects on private land is generally proprietary information not available to Western.

In NEPA regulations, “effect” and “impact” are deemed to be synonymous. The implementing procedures at 10 CFR 1021.322 provide for issuance of a FONSI if the EA supports the finding that the proposed action will not have a significant effect on the human environment, while allowing for mitigation of impacts as part of a proposed action to render any impacts not significant. Significance is defined at 40 CFR 1508.27 and includes considerations of both context and intensity. Evaluation of intensity includes, among other things, the effect of a proposal on cultural resources as well as on wetlands.

36 CFR 800, Sections 800.3 through 800.7, provides the framework within which federal agencies conduct National Historic Preservation Act consultation with tribes. Section 800.4(a)(3) and 800.4(a)(4) require the action agency to seek information from consulting parties, in this case the Standing Rock Sioux Tribe, to assist in identifying properties that may be of religious or cultural significance and may be eligible for the National Register of Historic Places. Western sought information numerous times beginning June 11, 2013, from the Standing Rock Sioux Tribe regarding sites of religious or cultural significance within the project area. The Standing Rock Sioux Tribe did not provide any information to assist identification of cultural sites within the project area. Two cultural sites eligible for the National Register were identified during the Class III field survey, 39CA285 and 39CA***. A turbine the applicant had planned to install near the location of 39CA285 has been moved, thereby eliminating any impact to 39CA285. A 100-foot buffer will be maintained around 39CA*** during construction, thereby protecting it from disturbance. As noted in 3.14.2 in the EA, if any other cultural sites are identified during construction of the proposed project, work would halt within 200 feet of the site until tribes are consulted for mitigation measures. Thus, no significant impacts to cultural resources are anticipated.

Western established a buffer zone around the NWI identified wetlands to avoid impacting any jurisdictional wetlands. Further wetland avoidance measures and delineation information have been added to section 3.5 of the EA. The applicant has conducted initial field verification of the NWI wetlands and will perform final field verification of the NWI wetlands prior to construction of the wind farm. The applicant will avoid wetland impacts by routing the collection system around wetlands or by boring under wetlands when necessary to optimize the electrical collection system. In the event that an individual wetland cannot be avoided, the applicant will work with the Army Corps of Engineers to determine proper mitigation. Implementation of best management practices identified in section 3.5 of the EA will further reduce any potential indirect impact of the project to wetlands. Thus, no significant impacts to wetlands are anticipated.

Western did not identify any significant impacts during the NEPA process. As described in 10 CFR 1021.322, a FONSI shall be prepared if the EA supports the finding that the proposed action will not have a significant effect on the human environment. Therefore, the appropriate course of action for Western at this point is to finalize the EA and issue a FONSI.

Response to Comment 5

Western's purpose for the EA is to analyze the proposed interconnection of the Project to Western's portion of the electric grid. The purpose of the EA is not to determine which source of energy will be used to produce electricity, but to determine the environmental impact of the interconnection.

Response to Comment 6

See the response to comment 5.

Response to Comment 7

The study citation will be added to the appendix.

Response to Comment 8

See the response to comment 5.

Response to Comment 9

The tables have been merged in Section 2.6 for clarity.

Response to Comment 10

The duty for contacting tribal representatives is the responsibility of Western. Eleven tribes, including the Standing Rock Sioux Tribe, were contacted by Western. The list of tribes contacted will be added to the appendix.

Response to Comment 11

See the response to comment 2.

Response to Comment 12

The differences between the tables reflect the land area that is studied. In some cases, the actual area that will be disturbed is studied. In some cases, the entire Project site including disturbed and undisturbed area is studied. In some cases, the entire Project site and a buffer zone around the site is studied. Clarification to the tables will be added to explain the study area of the specific table.

Response to Comment 13

Western's purpose for the EA is to analyze the proposed interconnection of the Project to Western's portion of the electrical grid. The purpose of the EA is not to determine to whom the power would be sold, but to determine the impact of the interconnection.

Response to Comment 14

The statement will be modified to reflect that the studies are complete.

Response to Comment 15

36 CFR 800, Sections 800.3 through 800.7, provides the framework within which federal agencies conduct consultations with State Historic Preservation Offices (SHPO) and Tribal Historic Preservation Offices (THPO). Section 800.4(a)(3) and 800.4(a)(4) require the action agency to seek information from consulting parties, in this case the Standing Rock Sioux Tribe and South Dakota SHPO, to assist in identifying properties that may be of religious or cultural significance and may be eligible for the National Register of Historic Places (National Register). Western met with Standing Rock Sioux Tribe representatives numerous times from Jun 11, 2013 to July 15, 2014 to consult on historic properties of significance to the Tribe within the Project area. Western also consulted with the SD State Historic Preservation Office representatives and the Advisory Council on Historic Preservation representatives to solicit information regarding historic properties of significance within the Project area.

Standing Rock Sioux Tribe did not provide Western any information regarding properties significant to the Tribe and potentially eligible for the National Register. Using the information provided by South Dakota SHPO and in accordance with 800.4(b), the agency made a reasonable and good faith effort to identify historic properties included in or eligible for inclusion in the National Register within the Project area. Cultural survey reports were provided to Standing Rock Sioux Tribe THPO and South Dakota SHPO in March and April of 2014 for their review and input. In an email to Western dated April 30, 2014, the Standing Rock Sioux Tribe THPO rejected the cultural surveys in their entirety and refused to review the eventual draft environmental assessment; South Dakota SHPO provided comments to Western on August 26, 2014.

Western provided South Dakota SHPO and Standing Rock Sioux Tribe THPO with copies of two final reports, “*Addendum to Campbell County Wind Farm: A Class III Intensive Cultural Resource Inventory in Campbell County, South Dakota*” and “*Campbell County Wind Farm: A 3-D Virtual Viewshed Analysis in Corson and Campbell Counties, South Dakota*” on December 3, 2014. The letter accompanying these documents stated that all areas within the area of potential effects had now been surveyed, and summarized the cultural and historic sites found as well as the avoidance and mitigation measures planned to avoid adverse impacts to the sites. The Standing Rock Sioux Tribe THPO responded by email on December 5, 2014 that they do not concur with the findings. Western’s consultation with the Standing Rock Sioux Tribe THPO is ongoing.

Response to Comment 16

See the response to comment 9. For this row of Table 2.1-1, the area of study was the disturbed area of the collection system. The collection system is mapped on page 23 and described in detail in Section 2.3.3.1 on page 24. The acreage figure has been added to the text on page 24 for further clarity.

Response to Comment 17

The U.S. Fish and Wildlife National Wetland Inventory (NWI) maps were used to identify the wetlands. The goal of the NWI “is to provide the citizens of the United States and its Trust Territories with current geospatially referenced information on the status, extent, characteristics and functions of wetlands, riparian, deepwater and related aquatic habitats in priority areas to promote the understanding and conservation of these resources.” (US Fish and Wildlife Service National Standards and Quality Components for Wetlands, Deepwater and Related Habitat Mapping, 2004). The assumptions used in paragraph 3.5.1 were made to determine which of the identified wetlands could be US Army Corps of Engineers jurisdictional wetlands. Western established a 50-foot buffer zone around the NWI identified wetlands to avoid impacting any jurisdictional wetlands. The applicant has conducted initial field verification of the NWI wetlands. Final field verification of the NWI wetlands potentially impacted by the power collection system will be conducted prior to construction of the wind farm and the applicant will incorporate the 50-foot buffer when re-routing the collection system for avoidance of wetlands.

Response to Comment 18

See response to comment 15. Consultation, as defined in 36 CFR 800.16(f), means “the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process.” During numerous consultation meetings and conference calls, Western has solicited information from the SRST regarding areas of interest to the Tribe, of which the Tribe is aware and that are included in or are eligible for inclusion in the National Register, so that these areas can be identified and impacts to them can be avoided. To date, SRST has not furnished information regarding any areas of interest that are included in or may be eligible for inclusion in the National Register. Western has never excluded the Tribe from providing this information for the project and still seeks input from SRST regarding any areas of interest to the Tribe.

Response to Comment 19

The paragraph will be modified to reflect the latest projected construction timeframe.

Response to Comment 20

See response to comment 2 for who prepared the EA and comment 19 for the projected construction timeframe.

Response to Comment 21

See response to comment 15 generally. Western's representative informed the applicant that Western would not be able to attend the consultation meeting. The applicant then chose not to attend the meeting and the meeting was canceled.

Response to Comment 22

As stated in 1.1.2 of the EA:

“Western's purpose and need is to consider and respond to the interconnection request in accordance with its Open Access Transmission Tariff (Tariff) and the Federal Power Act. Western's Tariff is filed with the Federal Energy Regulatory Commission (FERC) for approval.

Under the Tariff, Western offers capacity on its transmission system to deliver electricity when capacity is available. The Tariff also contains terms for processing requests for the interconnection of generation facilities to Western's transmission system. In reviewing interconnection requests, Western must ensure that existing reliability and service is not degraded. Western's Tariff provides for transmission and system studies to ensure that system reliability and service to existing customers are not adversely affected by new interconnections. These studies also identify system upgrades or additions necessary to accommodate the proposed project and address whether the upgrades/additions are within the project scope.”

Please note that Western's purpose and need under this EA is limited to the consideration of approving or not approving a transmission interconnection request. Western's purpose and need does not include the generation of electrical power. Since the interconnection request can only be approved or not approved, the logical range of alternatives is limited to two: approved, or not approved. In this case, if approved, the operational interconnection agreement to be executed would include Western building, owning, and operating a small switchyard at the interconnection location to accommodate the physical interconnection.

Western does not and cannot involve itself in the development, siting, or design aspects of privately held generation facilities on private land. It should also be understood that alternatives to locations, turbine designs, and other technical aspects of a project that may have been considered and eliminated by private developers for private generation projects on private land is generally proprietary information not available to Western.

Response to Comment 23

Western's purpose for the EA is to analyze the proposed interconnection of the Project to the electrical grid. The purpose of the EA is not to determine to whom the power would be sold, but to determine the impact of the interconnection. Basin Electric Power Cooperative operates in 9 states. The energy from this sale could go into their system and be used in a number of those states and not necessarily for the sole purpose of providing electricity to the Bakken area.

Response to Comment 24

See response to comment 9.

Response to Comment 25

See response to comment 9. The applicant will provide a single estimate for the amount of underground collection lines.

Response to Comment 26

The EA acknowledges the project would introduce a substation, wind turbines, lights, and roads to the project area. The substation itself would introduce a localized industrial feeling adjacent to the substation, but the effect is expected to be limited because the project would be located in a remote area not readily visible to the public. The wind turbines, lights, and roads would introduce additional visual disturbance beyond the existing roads, trails, signs, windbreaks, fences, homesteads, and ongoing agricultural activity in the area, but the additive disturbance would not change the rural, heavily agricultural character of the project area. A visual impact study was conducted; results of the study were provided to the Standing Rock Tribal Council and will be attached to this EA as an appendix.

Response to Comment 27

See response to comment 12. The applicant will incorporate a 50-foot surface buffer to avoid impacts to wetlands, or will bore under wetlands when necessary. In the event routing of the collection system cannot accommodate avoidance of a particular wetland, the applicant will

perform a formal delineation of the wetland and work with the Army Corps of Engineers to develop appropriate mitigation for any impact to a wetland. The estimated number of wetlands that will be impacted is zero.

Response to Comment 28

See response to comment 17. South Dakota has delegated authority from the United States Environmental Protection Agency (EPA) to administer the Storm Water National Pollution Discharge Elimination System (NPDES) permitting program within its borders. Storm water discharges resulting from construction activities that disturb more than one acre are regulated under this program. In South Dakota, developers planning to disturb more than one acre must complete a Storm Water Pollution Prevention Plan (SWPPP) before beginning construction and receive NPDES permit coverage under South Dakota's General Permit for Storm Water Discharges Associated with Construction Activities (General Permit) from the South Dakota Department of Environment and Natural Resources (DENR). A copy of the DENR's authorization letter to the developer and a copy of the cover page of the General Permit are required by state law to be posted at the construction site for public viewing. The developer is not required by law to submit the SWPPP itself to South Dakota's regulatory office unless explicitly requested by that office.

Response to Comment 29

Even though wetlands are less than 1% of the total project area, several wetlands exist and this number of wetlands can be considered numerous. The section has been updated to include an estimated number of NWI wetlands with the project area. In the event routing of the collection system cannot accommodate avoidance of a particular wetland, the applicant will work with the Army Corps of Engineers to develop appropriate mitigation for any impact to a wetland of 0.1 ac or larger. The estimated number of wetlands that will be impacted is zero.

Response to Comment 30

See response to comment 2. Table 3.6-1 Bat Species on page 50 is credited to Eco-Tech Consultants, 2011. The table and the following summary paragraph are sourced from the bat survey in Appendix C.

Response to Comment 31

The list identified the common avian species known to exist in north central South Dakota. For the complete list, see the avian surveys in Appendix C.

Response to Comment 32

Sand Lake Refuge is a national wildlife refuge located near Aberdeen, SD. The information was included to show avian species that are known to exist in north central South Dakota. The project will not impact the refuge.

Response to Comment 33

Many bat species known to occur in Iowa, Minnesota, and Wyoming are also known to occur in or near the Project area. No published studies of bat activity levels in the Project area were available. Western's analysis compared bat activity observed during surveys of the Project area to the available published data from study locations nearest the Project.

Response to Comment 34

Cumulative effects and impacts result when the effects of a proposed action are added to or interact with other effects of the proposed action (CEQ 1987). The analysis for cumulative effects looks at the proposed action on known conditions. The paragraph will be re-worded to better describe cumulative effects.

Response to Comment 35

See response to comment 10 and comment 15.

Response to Comment 36

See response to comment 26.

Response to Comment 37

See response to comment 15 and comment 18.

Response to Comment 38

See response to comment 15. Western has determined the sites eligible for the National Register.

Response to Comment 39

The paragraph will be re-written to better explain the impacts.

Response to Comment 40

Section 3.7.3 analyzes the cumulative effect of past, present, and reasonably foreseeable future actions on cultural resources in or near the Project area. Current industry practice is to avoid all cultural resource sites, therefore by following current industry practice the applicant will avoid impacts to cultural resources. Current industry standard is to avoid all cultural resource sites, therefore reasonably foreseeable future actions are anticipated to affect cultural resources in or near the Project area. This section of the EA has been revised to provide clarity.

Response to Comment 41

The purpose and need for the project are discussed in section 1.1 of the EA. The decision for Western is to determine whether to allow the interconnection of the Project to Western's portion of the electric grid. The no action alternative for the Project would be to not allow the Project to connect to Western's portion of the electric grid. Additional information will be added to section 1.1 to clarify the applicant's underlying need and the agency purpose and need. There is nothing under NEPA or Western's regulatory statutes that preclude Western from continuing to work on the NEPA process while a project is in suspension.