

# Wind Energy Project Permitting in Montana

## Considerations for Developers

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# Wind Project Permitting in Montana

- ▶ No permits specific to Wind Energy
- ▶ Applicable requirements apply to other facilities/projects, not just wind
- ▶ Each Project is Unique
  - ▶ Location
  - ▶ Size
  - ▶ Components/Design
  - ▶ Site-Specific Issues

# Wind Project Permitting in Montana

## Notable Factors

- ▶ Location & Land Ownership
  - ▶ Federal Land: 29 percent of the state, not addressed in this presentation
  - ▶ State Trust Land: 5 percent of the state
  - ▶ Private Land
- ▶ Project Size
  - ▶ <20MW typically require few “environmental” permits or authorizations
  - ▶ 20-80MW projects can often avoid many permits
  - ▶ 80-160+ MW increases the likelihood of more notable environmental permits

# Siting and Permitting are Intertwined

- ▶ Consider the purpose of laws and regulations
- ▶ Site to avoid impacts to protected resources
- ▶ Identify other issues and risk factors
- ▶ Take measures to address uncertainty

# Successful Permitting

## Built from the Bottom Up

- ▶ Operate (and Monitor)
  - ▶ Construct (and Monitor)
  - ▶ Secure Permits
  - ▶ *AGENCY REVIEW PROCESSES*
  - ▶ Apply for Permits
  - ▶ Develop Feasible Proposal/Design
  - ▶ Update Constraints and Consider Avoidance Areas
  - ▶ Conduct Onsite Investigations
  - ▶ **Develop a Permitting Plan**
  - ▶ Preliminary Design (updated concept)
  - ▶ Identify Hard Constraints Based on Existing Data
- START:** Selected Site and Conceptual Project

# Successful Permitting

## Evolving Projects Demand Dynamic Permitting Plans

- ▶ Revisit and revise plans throughout the process
- ▶ Start field studies and agency consultation early
- ▶ Consider public concerns and opportunities for public involvement
- ▶ Roadblocks:
  - ▶ Inadequate data collection
  - ▶ Incomplete applications
  - ▶ Unexpected issues
  - ▶ No feasible alternatives

# Successful Permitting

## Identify Feasible Alternatives & Maintain Flexibility

- ▶ Facility Locations
  - ▶ Identify hard restrictions early
  - ▶ Identify feasible alternatives in the “buildable” area
    - ▶ Wind Project Layout
    - ▶ Point of Interconnect
    - ▶ Transmission Routes
  - ▶ Ensure Data Adequacy
- ▶ Timing of Construction and COD

# Priority Permitting Considerations

## Select State Processes

- ▶ Montana Sage Grouse Habitat Conservation Program
- ▶ Montana Major Facility Siting Act
  - ▶ Point of Interconnection & Transmission
  - ▶ Site Certificate Required? (“Facility” definition)
- ▶ Montana State Trust Land
  - ▶ Lease
  - ▶ Rights-of-Way / Easements
  - ▶ Options to include or avoid?
- ▶ Montana Environmental Policy Act



# Priority Permitting Considerations

## Local Requirements and Issues

- ▶ Zoning & Ordinances
- ▶ Site Access / Transportation (MDT, county, city, landowners)
- ▶ Property Restrictions & Conflicting Uses
- ▶ Neighbors and Local Concerns
  - ▶ Negatives
  - ▶ Positives

Local concerns can manifest during public meetings, comment periods or in private lawsuits.

# Priority Permitting Considerations

## Wildlife Protection

- ▶ Greater Sage Grouse Habitat (evaluate early, revisit and study as needed)
- ▶ ESA-Listed Species
- ▶ Eagle Conservation Planning (Nests and Use)
- ▶ Other Wildlife Concerns (raptors, other migratory birds, bats, native habitats, etc)
  - ▶ Land Based Wind Energy Guidelines
  - ▶ Early consultation is recommended

Even where not required, measures taken to address impacts to wildlife are a major consideration for the Wind Industry.

**Start Field Studies Early!**

# Later Considerations for Permitting

## Other Regulations & Resources

- ▶ Water Resources
  - ▶ Waters of the US (and State), Including Wetlands
    - ▶ Section 404: Nationwide Permits 12, 14, and 51
    - ▶ 401 Cert
  - ▶ Perennial Stream Crossings
  - ▶ Construction in Floodplains
  - ▶ Stormwater Construction Permits
  
- ▶ Cultural Resource Studies?  
*(possibly required earlier, depending on site characteristics and permits)*

# Later Permitting Considerations

## *Nearer to construction...*

- ▶ Open Cut Permit (potentially substantial, but typically use existing permitted source)
- ▶ Transportation Permit and Agreements (MDT, County, City)
- ▶ Building Permits
- ▶ Public Water Supply
- ▶ Septic System Review (local)
- ▶ Noxious Weed Control Plan (local)

## Also important, but not discussed:

FAA Hazard Determination

Communication Impact Evaluations

Waste Disposal Plans

DOD Siting Review

# Construction and Operation

## *Permitting Is Not Entirely Over*

- ▶ Comply with conditions of leases, permits, plans and authorizations
  - ▶ Construction Monitoring
  - ▶ Post-Construction Monitoring
- ▶ Address unexpected or unacceptable impacts
- ▶ Implement mitigation
- ▶ Obtain carcass collection permits
- ▶ Prepare a decommissioning plan (12mo) and submit bond (15yr)

*Thank You For Your Time*