Your Energy Partner®
OPPD
Omaha Public Power District

OPPD BOARD OF DIRECTORS

BOARD MEETING MINUTES

June 16, 2022

The regular meeting of the Board of Directors of the Omaha Public Power District ("OPPD" or "District") was held on Thursday, June 16, 2022 at 5:00 p.m. at the Omaha Douglas Civic Center, 1819 Farnam Street, 2nd Floor Legislative Chamber, Omaha, Nebraska and via Webex audio and video conference.

Present in person at the Civic Center were Directors A. E. Bogner, M. J. Cavanaugh, S. E. Howard, J. M. Mollhoff, C. C. Moody, M. G. Spurgeon, E. H. Williams and R. M. Yoder. Also present in person were L. J. Fernandez, President and Chief Executive Officer, S. M. Bruckner of the Fraser Stryker law firm, General Counsel for the District, M. F. Hinners, Senior Corporate Governance Specialist, and other members of the OPPD Board meeting logistics support staff. Chair A. E. Bogner presided and M. F. Hinners recorded the minutes. Members of the executive leadership team present in person (or via Webex) included: J. M. Bishop, K. W. Brown, S. M. Focht (Webex), T. D. McAreavey, K. S. McCormick, L. A. Olson (Webex), M. V. Pinder (Webex), B. R. Underwood and T. R. Via. Approximately 30 attendees, consisting of OPPD employees and members of the public, were in attendance via Webex, and 2 members of the public were present at the Civic Center.

Board Agenda Item 1: Chair Opening Statement

Chair Bogner gave a brief opening statement, including reminders for using the Webex audio and video conferencing platform.

Board Agenda Item 2: Safety Briefing

J. D. Clark, Manager Protective Services, provided the safety briefing for the Civic Center. President Fernandez provided physical and psychological safety reminders, including current safety focus reminders about: (i) heat-related illness prevention; (ii) storm preparedness; and (iii) avoiding sprains, strains and tears.

Board Agenda Item 3: Guidelines for Participation

Chair Bogner then presented the guidelines for the conduct of the meeting and instructions on the public comment process using Webex audio and video conferencing features.

Board Agenda Item 4: Roll Call

Ms. Hinners took roll call of the Board. All members were present in person.

Board Agenda Item 5: Announcement regarding public notice of meeting

Ms. Hinners read the following:

> *"Notice of the time and place of this meeting was publicized by notifying the area news media; by publicizing same in the Omaha World Herald, OPPD Outlets newsletter, oppd.com and social media; by displaying such notice on the Arcade Level of Energy Plaza; and by e-mailing such notice to each of the District's Directors on June 10, 2022.*
>
> *A copy of the proposed agenda for this meeting has been maintained, on a current basis, and is readily available for public inspection in the office of the District's Corporate Secretary.*
>
> *Additionally, a copy of the Open Meetings Act is available for inspection on oppd.com and in the meeting room."*

Board Consent Action Items:

Item 6. Approval of the April 2022 Comprehensive Financial and Operating Report, May 2022 Meeting Minutes and the June 16, 2022 Agenda
Item 7. SD-15: Enterprise Risk Management Monitoring Report – Resolution No. 6507
Item 8. Annual Health Plan Report – Resolution No. 6508
Item 9. Appointment of Small Cap Growth Investment Manager for Retirement Fund – Resolution No. 6509
Item 10. Appointment of Private Credit Investment Managers for Retirement Fund – Resolution No. 6510

It was moved and seconded that the Board approve the consent agenda items.

Chair Bogner noted the Board discussed the action items during the All Committees meeting held on Tuesday, June 14, 2022.

Chair Bogner then asked for public comment. There was no comment from the public in attendance at the meeting or via Webex.

Thereafter, the vote was recorded as follows: Bogner – Yes; Cavanaugh – Yes; Howard – Yes; Mollhoff – Yes; Moody – Yes; Spurgeon – Yes; Williams – Yes; Yoder – Yes. The motion carried (8-0).

Board Agenda Item 11: Corporate Officer Reviews and Compensation Adjustments – K. W. Brown, S. M. Focht, L. A. Olson and T. R. Via – Resolution No. 6511

Ms. Hinners read the following:

> *"NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Omaha Public Power District that the compensation adjustments for the following corporate officers: Kate W. Brown, Scott M. Focht, Lisa A. Olson, and Troy R. Via, as set forth on the Exhibit A attached hereto, be and hereby are approved."*

It was moved and seconded that the Board approve this action item.

Director Moody reminded the public that the Board has changed its process for reviewing and approving corporate officer compensation adjustments. Previously, each corporate officer was reviewed individually during the month of his or her service anniversary. In January, the Governance Committee recommended that current corporate officer performance reviews and compensation adjustments be conducted in a consolidated fashion, i.e., all corporate officers would be reviewed and compensation would be adjusted at the same time. The Board reviewed the performance of, and recommended salary adjustments for, vice presidents K. W. Brown, S. M. Focht, L. A. Olson and T. R. Via during a closed session in May. The recommended compensation adjustments were presented at the All Committees meeting on Tuesday, June 14.

Director Moody expressed support for the compensation adjustments as a matter of retention. He highlighted the evolution of OPPD's executive leadership team over the past year, including a new CEO, and the importance of the work they are leading.

Director Spurgeon expressed appreciation for the work that these corporate officers are leading to transition OPPD for the future and support for the compensation adjustments.

Chair Bogner then asked for public comment. There was no comment from the public in attendance at the meeting or via Webex.

Thereafter, the vote was recorded as follows: Bogner – Yes; Cavanaugh – Yes; Howard – Yes; Mollhoff – Yes; Moody – Yes; Spurgeon – Yes; Williams – Yes; Yoder – Yes. The motion carried (8-0).

Board Agenda Item 12: SD-2: Rates Monitoring Report – Resolution No. 6512

Ms. Hinners read the following:

> *"NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Omaha Public Power District accepts the SD-2: Rates Monitoring Report in the form as set forth on Exhibit A, attached hereto and made a part hereof, and finds OPPD to be sufficiently in compliance with the policy as stated."*

It was moved and seconded that the Board approve this action item.

Director Yoder noted that this would be the last monitoring report under the current version of the SD-2 Rates policy as the Finance Committee has undertaken an initiative to revise SD-2. He noted the Board would conduct a public workshop on rate design on June 22. He expressed appreciation to the staff for the work that is being conducted related to affordability.

Director Williams expressed appreciation for the additional information on affordability that has been included in the monitoring report. He looks forward to the Board workshops on rate design and how technology can improve rate design in the future.

Chair Bogner then asked for public comment.

Mr. Alan Volvolka, 3719 Hamilton Street, Omaha, questioned OPPD's compliance with the goals of SD-2 and expressed appreciation for the upcoming rate design workshops. He hopes new rates will incentivize conservation and distributed generation.

Mr. Mark Welsch, 5611 Howard Street, Omaha, implored OPPD to focus more on the "environmentally sensitive" aspect of OPPD's mission statement and to change the 2050 net zero carbon production goal date to 2035.

There was no additional comment from the public in attendance at the meeting or via Webex.

Thereafter, the vote was recorded as follows: Bogner – Yes; Cavanaugh – Yes; Howard – Yes; Mollhoff – Yes; Moody – Yes; Spurgeon – Yes; Williams – Yes; Yoder – Yes. The motion carried (8-0).

Board Agenda Item 13: SD-11: Economic Development Policy Revision – Resolution No. 6513

Ms. Hinners read the following:

> *"NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Omaha Public Power District that the revised Board Policy SD-11: Economic Development be and hereby is approved, effective June 16, 2022, as set forth on the Exhibit A, attached hereto."*

It was moved and seconded that the Board approve this action item.

Director Mollhoff noted that economic development means different things to different people. She stated economic development encompasses more than data centers and distribution warehouses in Sarpy County. She has observed thriving communities in Blair, Valley and Ashland and revitalized main streets across the area.

Director Yoder expressed general support for the revisions to SD-11 and hopes to see further revisions in the future that provide more direction from the Board, addresses language about attracting businesses in a fully employed economy, and quantifies the return on investment for all customers for the activities that are included in the last bullet of SD-11 regarding optimizing the energy system.

Director Williams expressed general support for the revisions to SD-11 and hopes additional revisions will be made in the future to address ambiguity and the balance of economic development with environmental sensitivity.

Director Moody expressed appreciation for the work that has gone into revising SD-11, but he is uncomfortable with the policy because it feels too narrow. He believes OPPD should support broader community development.

Director Mollhoff expressed her belief that the revised SD-11: Economic Development policy reflects OPPD's vision of lower emissions, stronger communities and more robust customer engagement. She noted the economic development team proactively reached out to local development agencies with the proposed policy language. She believes that while the revised language may not be perfect, the revised policy provides the directional focus that promotes community well-being, addresses workforce needs, and enhances the quality of life for customers.

Chair Bogner then asked for public comment.

Mr. Mark Welsch, 5611 Howard Street, Omaha, inquired about what OPPD will do to address chronic poverty and unemployment in North Omaha. He also inquired if a special rate could be created to discourage new businesses from locating in counties that do not support renewable energy.

Mr. Ryan Wishart, 912 N. 49th Street, Omaha, commented upon the distinction between economic development and economic growth. He asked the Board to consider how SD-11 in the past has contributed to the delay in the closing and refueling of North Omaha Station.

Mr. John Pollack, 1412 N. 35th Street, Omaha, echoed comments provided by the previous speakers and stated he does not want to see growth for the sake of growth without thinking about the consequences.

There was no additional comment from the public in attendance at the meeting or via Webex.

Thereafter, the vote was recorded as follows: Bogner – Yes; Cavanaugh – Yes; Howard – Yes; Mollhoff – Yes; Moody – No; Spurgeon – Yes; Williams – Yes; Yoder – Yes. The motion carried (7-1).

Board Agenda Item 14: President's Report

President Fernandez next presented the following information:

- May Baseload Generation
- May Balancing Generation
- May Renewables
- Honor Our Community Activities and Events, including:
  - Peregrine Falcon Chicks
  - OPPD Participation in community parades
  - Volunteering in Public Power Day of Giving
- Rate Design Project – First of three public board workshops scheduled for June 22
- Electric Vehicle Ride and Drive Event
- Energy Education Program Spring Semester
  - President Fernandez announced that OPPD has launched its search for a new Vice President of Sustainability and Environmental Affairs, who will lead and balance OPPD's mission of affordability, reliability and environmental stewardship.
- In Memoriam

Board Agenda Item 15: Opportunity for comment on other items of District Business

Chair Bogner asked for comments from the public on other items of District business.

Mr. David D. Begley, 4611 S. 96th Street, Omaha, presented the Board with materials attached to these minutes and expressed support for the delay in the closure and refueling of North Omaha Station.

Ms. Mary Peck, 206 Fort Plaza, Gretna, expressed appreciation for Mart Sedky, former Vice President – Human Capital, who passed away in 2021. She expressed appreciation for OPPD and its support of the LGBTQIA+ community and Pride Month.

Mr. Mark Welsch, 5611 Howard Street, expressed his opinion that the net zero carbon production by 2050 goal be changed to 2035 and inquired about the calculation of renewable energy contribution to OPPD's retail sales. President Fernandez stated OPPD provides information about emissions on its website and explained that retails sales was used because it is a stable statistic.

Mr. Alan Volvolka, 3719 Hamilton Street, Omaha, expressed disappointment that the closure and refueling of North Omaha Station will be delayed and the Board consider changing the net zero carbon production goal date of 2050 to 2035.

Mr. John Pollack, 1412 N. 35th Street, Omaha, provided a weather update.

Ms. Frances Mendenhall, 3715 Hamilton Street, Omaha, expressed disappointment with the North Omaha recommendation and support for changing the 2050 net zero carbon production goal to 2035. She would like more discussion on the public health impacts of continuing to burn coal at North Omaha Station. She asked Director Yoder to provide sources of information for public health information. Director Yoder stated screening tools are available at the Environmental Protection Agency.

Mr. David Corbin, 1002 N. 49th Street, Omaha, representing the Nebraska Sierra Club, expressed disappointment that the closure of North Omaha Station will be delayed.

Mr. Ryan Wishart, 912 N. 49th Street, Omaha, referred to the Intergovernmental Panel on Climate Change (IPCC) report on climate adaptation. He hopes there will be future discussion about how much the increase in demand from new business versus population growth was related to policies.

There was no additional comment from the public in attendance at the meeting or via Webex.

There being no further business, the meeting adjourned at 6:29 p.m.

DocuSigned by: S. M. Focht B626AD4392E3483...	DocuSigned by: M. F. Hinners ECB979C26449479...
S. M. Focht Vice President – Corporate Strategy and Governance and Assistant Secretary	M. F. Hinners Assistant Secretary of the Meeting

From David D. Begley 6/16/22

Proposed OPPD Resolution, June 16, 2022

RESOLUTION ~~64XX~~ 65xx

WHEREAS, Omaha Public Power District ("OPPD") is a political subdivision of the State of Nebraska;

WHEREAS, OPPD generally operates its business consistent with Nebraska values;

WHEREAS, OPPD has adopted SD-10, Ethics which states, in part, "It is essential that OPPD maintain the public trust and confidence in the integrity and ethical conduct of its Board of Directors....";

WHEREAS, OPPD's purchasing goods and services from criminals and the beneficiaries of forced labor is not consistent with Nebraska values, ethics or integrity;

NOW, THEREFORE, BE IT RESOLVED, that every vendor of goods or services exceeding the purchase price $100,000 shall certify, under penalty of perjury, the following:

(a) That no materials or products sold to OPPD, or to be used by OPPD as part of a power purchase agreement, are the result of the use of forced labor;

(b) That it is in compliance with section 307 of the Tariff Act of 1930 (19 U.S.C. §1307) and Pub. L. 117-78, the Uyghur Forced Labor Protection Act;

(c) That no vendor, or person owning more than 10% of the equity of any vendor, shall have been ordered by any state or federal court to pay a criminal fine, restitution or penalty in excess of $100,000, been sentenced to a term of incarceration exceeding 30 days or sentenced to probation for a term exceeding six months.

NOW, THEREFORE, BE IT RESOLVED, that prior to the execution of any contract for the purchase of goods or services in excess of $1,000,000, the Fraser Stryker law firm shall perform due diligence with respect to the proposed seller of the goods or services to insure compliance with this resolution.

NOW, THEREFORE, BE IT RESOLVED, OPPD shall not do business with any person or organization that benefits from forced labor nor shall it do business with criminals or criminal organizations as defined in this resolution.

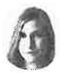
Prepared and submitted by customer-owner David D. Begley, 4611 S. 96th Street, Suite 234, Omaha, Nebraska.

From David D. Begley 6/16/22

The New York Times https://www.nytimes.com/2021/01/08/business/economy/china-solar-companies-forced-labor-xinjiang.html

Chinese Solar Companies Tied to Use of Forced Labor

A new report shows some of the world's biggest solar companies work with the Chinese government to absorb workers from Xinjiang, programs that are often seen as a red flag for forced labor.

By Ana Swanson and Chris Buckley

Published Jan. 8, 2021 Updated Jan. 28, 2021

In a flat, arid expanse of China's far west Xinjiang region, a solar technology company welcomed laborers from a rural area 650 miles away, preparing to put them to work at GCL-Poly, the world's second-largest maker of polysilicon.

The workers, members of the region's Uighur minority, attended a class in etiquette as they prepared for their new lives in the solar industry, which prides itself as a model of clean, responsible growth. GCL-Poly promoted the housing and training it offered its new recruits in photographs and statements to the local news media.

But researchers and human rights experts say those positive images may conceal a more troubling reality — the persecution of one of China's most vulnerable ethnic groups. According to a report by the consultancy Horizon Advisory, Xinjiang's rising solar energy technology sector is connected to a broad program of assigned labor in China, including methods that fit well-documented patterns of forced labor.

Major solar companies including GCL-Poly, East Hope Group, Daqo New Energy, Xinte Energy and Jinko Solar are named in the report as bearing signs of using some forced labor, according to Horizon Advisory, which specializes in Chinese-language research. Though many details remain unclear, those signs include accepting workers transferred with the help of the Chinese government from certain parts of Xinjiang, and having laborers undergo "military-style" training that may be aimed at instilling loyalty to China and the Communist Party.

The Chinese government disputes the presence of any forced labor in its supply chains, arguing that employment is voluntary. The companies named in the report either did not respond to requests for comment or denied any role in forced labor.

In a statement, a representative for the Chinese Embassy in Washington called forced labor in Xinjiang "a rumor created by a few anti-China media and organizations," adding that all workers in Xinjiang enter into contracts in accordance with Chinese labor law. "There is no such thing as 'forced labor,'" the representative said.

The report adds to a growing list of companies that have been accused of relying on coerced labor from Uighurs and other ethnic minorities in China, either in their own factories or those of their suppliers.

The United States and other governments have become increasingly vocal about forced labor in Xinjiang, including naming and shaming major corporations that operate in the region. The Trump administration has imposed sanctions on dozens of companies and individuals for their role in Xinjiang, including banning some exports from the region, which is also a major producer of cotton. On Dec. 2, it banned imports made with cotton produced by the Xinjiang Production and Construction Corps, a paramilitary group that American officials say uses forced labor.

Congress is also considering sweeping legislation that would ban all products with materials from Xinjiang unless companies certify that the goods are made without forced labor.

John Ullyot, the spokesman for the National Security Council, said that China's campaign of repression in Xinjiang involved "state-sponsored forced labor" and that the United States would "not be complicit in modern day slavery."

"The administration has taken unprecedented actions to prevent China from profiting off of its horrific human rights abuses," he said.

Together, the solar companies named in the report supply more than a third of the world's polysilicon, which is refined from rock and turned into the solar panels that end up on rooftops and utility energy projects, including those in the United States and Europe.

Government announcements and news reports indicate that solar companies often take in assigned workers in batches of dozens or fewer, suggesting that the transfers are a small part of their overall work force. Still, the assertions from Horizon Advisory imply that much of the global solar supply chain may be tainted by an association with forced labor. Such charges could hurt its progressive image and risk product bans from Washington.

GCL-Poly, Daqo New Energy, Xinte Energy and East Hope Group did not respond to multiple requests for comment.

Ian McCaleb, a spokesman for Jinko Solar, said the company "strongly condemns the use of forced labor, and does not engage in it in its hiring practices or workplace operations." He said that it had reviewed the claims in the Horizon report and "found that they do not demonstrate forced labor in our facilities."

China carries out a vast program of detention and surveillance of Uighurs, Kazakhs and other minorities in Xinjiang. Up to a million or more minorities may have been detained in indoctrination camps and other sites where they are forced to renounce religious bonds, and risk torture, assault and psychological trauma, Uighurs abroad and human rights groups say.

The Xinjiang government has promoted the labor transfer programs in parallel with the re-education camps, efforts that have ramped up drastically under the current leader, Xi Jinping. The government has uprooted many from farms to work in factories and cities, in the belief that steady, supervised work can pull minorities out of poverty and break down cultural barriers. Workers may have little choice but to obey local officials who oversee their move to distant towns and industrial zones to fulfill government-set quotas.

An internment camp in Xinjiang that local officials have portrayed as a vocational training center. Thomas Peter/Reuters

The growing scrutiny of the region has already prompted changes among some companies whose supply chains are entangled in these programs. Many textile and apparel companies that use cotton or yarn from Xinjiang have severed ties, including Patagonia, Marks and Spencer and H&M.

The solar sector could face similar pressure. The industry has deep ties to Xinjiang, which accounts for about 40 percent of global polysilicon production, said Jenny Chase, the head of solar analysis at BloombergNEF. Xinjiang's polysilicon production increased rapidly over the past decade, mostly because of cheap electricity from local coal plants and other government support, Ms. Chase said.

That expansion has helped Chinese companies dominate foreign competitors, including in the United States. China produced 82 percent of global polysilicon in 2020, up from 26 percent in 2010, according to data from IHS Markit, while the U.S. share of production shrunk to 5 percent from 35 percent.

"I am concerned that forced labor may have been used in Xinjiang," said Francine Sullivan, the vice president for business development at REC Silicon, a Norwegian polysilicon manufacturer with operations in the United States. The company shut a facility in Washington State, despite surging overall U.S. demand.

Xinjiang is known for low safety and environmental standards, Ms. Sullivan said, and forced labor "may be just part of the incentive package."

Xiaojing Sun, a senior research analyst at Wood Mackenzie, said solar companies were starting to investigate their exposure to Xinjiang and reconfigure their supply chains to avoid the region if possible.

In a note to investors in October, analysts at Roth Capital Partners said the solar sector faced a "heightened risk of disruption" because of its ties to Xinjiang.

"Investors are getting nervous," Ms. Sun said.

The Solar Energy Industries Association, the largest industry association in the United States, has called human rights abuses in Xinjiang "reprehensible" and strongly encouraged companies "to immediately move their supply chains out of the region."

Since unfettered on-the-ground access to Xinjiang for foreign journalists and researchers is virtually impossible, the Horizon Advisory researchers do not provide direct testimony of forced labor. Instead, they present signs of possible coercion from Chinese-language documents and news reports, such as programs that may use high-pressure recruitment techniques, indoctrinate workers with patriotic or military education, or restrict their movement.

The report documents GCL-Poly accepting "surplus labor" from a rural region of Xinjiang last year. In 2018, according to an article on China Energy Net, a local news site, one of GCL-Poly's subsidiaries also accepted more than 60 such workers.

A local subsidiary of Jinko Solar, Xinjiang Jinko Energy Co., received state subsidies for employing local Xinjiang labor, including at least 40 "poor workers from southern Xinjiang" in May, according to a local government announcement from July 2020 cited by Horizon Advisory.

On its public WeChat account, East Hope Group said that it had "responded to the national Western Development Call and actively participated in the development and construction of Xinjiang," including constructing a polysilicon project in Changji prefecture in 2016, the Horizon report said.

That same year, according to a Chinese news report cited by Horizon, Xinjiang's Yarkand County signed a "labor export cooperation framework agreement" with a subsidiary named East Hope Group Xinjiang Aluminum Company.

Another subsidiary of East Hope, Xinjiang East Hope Nonferrous Metals Co., "accepted 235 ethnic minority employees from southern Xinjiang," who were given training to make up for "low educational qualifications, weak national language skills and insufficient job skills," according to a report on the company's website.

According to Horizon Advisory, several solar companies also have ties to the Xinjiang Production and Construction Corps, which has been penalized by the Trump administration. In its 2018 financial report, Daqo New Energy said its Xinjiang facilities benefited from a lower cost of electricity because the regional grid is operated by a division of the Xinjiang Production and Construction Corps.

Amy Lehr, the director of the Human Rights Initiative at the Center for Strategic and International Studies, said that work programs that draw on Xinjiang minorities and offer companies subsidies for employing them are a "red flag" for forced labor.These programs may restrict workers from quitting, traveling or participating in religious services, pay less than minimum wage, and involve harsh or unsafe work conditions, as well as the threat of detention, according to Ms. Lehr's research.

"The concern is that there is a potential for coercion, because of the level of surveillance and fearfulness," Ms. Lehr said. Companies that source products from the region have "no way of knowing that you're not being connected to forced labor," she said.

Nathan Picarsic, a founder of Horizon Advisory, said what the firm had documented was likely "just the tip of the iceberg." If Americans are buying solar panels made with materials from these Chinese companies, he said, "I would say you are complicit in perpetuating this Chinese industrial policy that suppresses and disenfranchises human beings."

From David D. Begley 6/16/22

FILED

4:34 pm, 4/6/22

Margaret Botkins
Clerk of Court

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA

vs

ESI ENERGY, LLC

Case Number: 22-CR-48-KHR

Defendant's Attorney(s):
Jeffrey Pope, Benjamin Wagner, Thomas Sansonetti

JUDGMENT IN A CRIMINAL CASE

THE DEFENDANT pled guilty to counts 1, 2 and 3.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

Title and Section	Nature of Offense	Date Offense Concluded	Count Number(s)
16 U.S.C. §§ 703, 707(a)	Unlawful Take of Migratory Birds	January 31, 2022	1
16 U.S.C. §§ 703, 707(a)	Unlawful Take of Migratory Birds	November 17, 2020	2
16 U.S.C. §§ 703, 707(a)	Unlawful Take of Migratory Birds	December 29, 2020	3

The defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS FURTHER ORDERED that the defendant shall notify the Court and the United States Attorney for this district within 30 days of any change of residence or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's USM No: **N/A**

April 5, 2022
Date of Imposition of Sentence

Kelly H. Rankin
Chief United States Magistrate Judge

4/6/2022
Date

PROBATION

The defendant is hereby placed on unsupervised probation for a term of sixty (60) months, beginning April 5, 2022, subject to the following terms:

The defendant shall (A) make restitution in accordance with 18 U .S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and (B) pay the assessment imposed in accordance with 18 U.S.C. § 3013. If there is a court-established payment schedule for making restitution or paying the assessment (see 18 U.S .C. § 3572(d)), the defendant shall adhere to the schedule.

The defendant shall also comply with the following additional conditions:

On or before October 1, 2022, the defendant shall make restitution of a total of Six Million Two Hundred Ten Thousand Nine Hundred Ninety-One dollars ($6,210,991.00) to the relevant agency of each state. The amount of restitution to each state is specifically:

California: $4,645,619.83
Wyoming: $403,966.94
New Mexico: $100,991.74
North Dakota: $656,446.28
Colorado: $151,487.60
Michigan: $151,487.60
Arizona: $50,495.87
Illinois: $50,495.87

Defendant is credited with already paying, through a subsidiary, to the State of California, pursuant to a prior civil agreement with the Attorney General of California and the Audubon Society Chapters of Golden Gate, Ohlone, Mount Diablo, Santa Clara Valley and Marin, and Californians for Renewable Energy, $2,206,260.00 making the final amount owed in restitution to California $2,439,359.83. Restitution will be paid to the Clerk of the Clerk for the District of Wyoming, to be paid to the relevant state agencies as directed by the U.S. Fish and Wildlife Service ("USFWS"). The defendant will not claim any of the restitution, or any other amount herein, as a tax deduction or characterize it in any manner or forum as a donation or contribution or voluntary action.

The defendant will implement the Eagle Management Plan ("EMP") set forth in Attachment B to the Plea Agreement in this matter (ECF Doc. 2), which was developed with the assistance of USFWS and the Department. The purpose of the EMP is to avoid and minimize eagle mortalities during the period between sentencing and final action on an application under the Bald and Golden Eagle Protection Act (hereinafter "Eagle Act") for an Eagle Take Permit ("ETP") for the following 50 wind facilities; Vasco Wind, North Sky River, Golden Hills, Golden Hills North, Cedar Springs I, Cedar Springs, III, Roundhouse, New Mexico Wind, Broncos Plains, Soldier Creek, Jordan Creek, Wheathridge II, Hubbard, Buffalo Ridge, Heartland Divide II, Eight Point, Irish Creek, Clearwater, Wilton, Ashtabula, Ashtabula II, Borderlands, Brady, Langdon, Langdon II, Oliver, Pheasant Run I, Skeleton Creek, Tuscola

Bay I, Tuscola Bay II, Blackwell, Crystal Lake I, Crystal Lake II, Crystal Lake III, Golden West, Green Power, Limon Wind I, Limon Wind II, Montezuma, Peetz I, Rush Springs, Sky River, Stateline, Torrecillas, White Hills, Pratt, Perrin Ranch, Lee/DeKalb, Casa Mesa and Emmons Logan (hereinafter "the Listed Facilities"). The EMP will terminate at each of these facilities upon the issuance of a final ETP decision for the facility or upon termination of any extended non-prosecution period for the facility, whichever is earlier. The EMP has been approved by the Chiefs of Migratory Birds for the relevant USFWS Regions and the Department. The EMP may be modified from time to time to the extent there is mutual agreement of USFWS and the defendant.

The defendant, USFWS, and the Department will meet at least once every six months during the first two years of the probationary period, and once every 12 months thereafter, to discuss the defendant's overall progress in implementing the EMP and to address any issues with, or proposed amendments to, the EMP. Every 12 months during the probation period, the defendant shall report in writing to the Court, USFWS, and the Department on the defendant's progress in implementing the EMP.

The defendant shall apply for ETPs for each of the Listed Facilities by the dates established in the EMP, and diligently pursue the EPTs thereafter.

As noted in the EMP, the parties recognizing that actual costs may vary from year to year based on advances in science and technology and the specific measures implemented during the term of the EMP, agree that the defendant, either directly or through its affiliates, will not be required to spend more than $27 million of the five years of probation, and no more than $7 million in either of its first two years of probation and no more than $9 million in any of the third, fourth and fifth years or probation, to implement the EMP (not including certain costs as set forth in the EMP).

Within 30 days of the entry of the plea in this matter, the defendant shall provide to USFWS its site assessments (including risk assessments) and turbine sitting plans for the four Listed Facilities not yet under construction or operation and due to become operation in 2022 and if this has not been done, shall occur immediately following entry of this Judgment.

The Court further incorporates all terms and conditions of defendants probation as expressly stated in the Plea Agreement (ECF Doc. 2). Those conditions are fully incorporated herein by reference.

FINANCIAL PENALTIES

The defendant shall pay the following total financial penalties in accordance with the schedule of payments set out below.

Count	Assessment	Restitution	Fine	
1	$50.00	$6,210,991.73	$1,861,600.00	
Notes:				
2	$50.00	$0.00	$0.00	
Notes:				
3	$50.00	$0.00	$0.00	
Notes:				
Totals:	$150.00	$6,210,991.73	$1,861,600.00	

The fine and assessments are due immediately and inclusive of all penalties and interest, if applicable.

All of the below payment options are subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

RESTITUTION

The defendant shall make restitution to the following persons in the following amounts:

Name of Payee	Amount of Restitution
Office of the Clerk United States District Court 2120 Capitol Avenue 2nd Floor, Room 2131 Cheyenne, WY 82001	$6,210,991.73

Restitution shall be paid in one lump sum on or before October 1, 2022.

The amount of restitution to each state is specifically:

California: $4,645,619.83
Wyoming: $403,966.94
New Mexico: $100,991.74
North Dakota: $656,446.28
Colorado: $151,487.60
Michigan: $151,487.60
Arizona: $50,495.87
Illinois: $50,495.87

Defendant is credited with already paying, through a subsidiary, to the State of California, pursuant to a prior civil agreement with the Attorney General of California and the Audubon Society Chapters of Golden Gate, Ohlone, Mount Diablo, Santa Clara Valley and Marin, and Californians for Renewable Energy, $2,206,260.00 making the final amount owed in restitution to California$2,439,359.83. Restitution will be deposited to the Clerk of the Clerk for the District of Wyoming, to be paid to the relevant state agencies as directed by the U.S. Fish and Wildlife Service ("USFWS"). The defendant will not claim any of the restitution, or any other amount herein, as a tax deduction or characterize it in any manner or forum as a donation or contribution or voluntary action.

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) fine; (3) restitution; (4) interest; (5) penalties.

The total fine and other monetary penalties shall be due in full immediately.

IT IS ORDERED the defendant shall pay a special assessment fee in the amount of $150, which shall be due immediately. Payments for monetary obligations shall be made payable by cashier's check or money order to the Clerk of the U.S. District Court, 2120 Capitol Avenue, Room 2131, Cheyenne, Wyoming 82001 and shall reference the defendant's case number, 22-CR-48-KHR. The fine shall be directed to the North American Wetlands Conservation fund as provided under 16 U.S.C. § 4406(b).