



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R3–ES–2017–N155; FXES11140300000–189–FF03E00000]**

**Habitat Conservation Plan for the Interior Least Tern and Application to Renew**

**Incidental Take Permit; Gibson County, Indiana**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of permit application; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on an application to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The ESA requires that we invite public comment before issuing these permits.

**DATES:** We must receive any written comments on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** *Submitting Comments:* Send written comments by U.S. Mail to the Regional Director, Attn: Phil Delphey, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458; or via email to [permitsR3ES@fws.gov](mailto:permitsR3ES@fws.gov). Specify that your comments pertain to **TE016724**.

*Obtaining Documents:* For information on obtaining documents for review, see **Public Comments**.

**FOR FURTHER INFORMATION CONTACT:** Phil Delphey, 612–713–5318.

## **SUPPLEMENTARY INFORMATION:**

### **Introduction**

Section 9 of the ESA and our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17 prohibit the “take” of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the ESA as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532(19)). However, under limited circumstances, we issue permits to authorize incidental take, i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

We invite public comment on permit renewal application TE016724, for certain activities with endangered species authorized by section 10(a)(2)(A) of the ESA (16 U.S.C. 1531 et seq.) and our regulations governing the taking of endangered species in the Code of Federal Regulations (CFR) at 50 CFR 17. Submit your written data, comments, or request for a copy of the complete application and Habitat Conservation Plan (HCP) to either address shown in **ADDRESSES**.

### **Background**

In 1986, a single pair of endangered Interior least terns (*Sterna antillarum*) nested at Cinergy Corporation’s (Cinergy) Gibson Generating Station in Gibson County, Indiana. Since that time, the least tern colony at the facility has grown. During the 1990s, Cinergy worked cooperatively with the Indiana Department of Natural Resources (IDNR) and the Service to maintain favorable conditions for successful tern production at

the Gibson Generating Station. Between 1986 and 1999, the largest number of terns recorded in a single year (1998) included an estimated 85 adult terns, 63 nests, and 72 fledged young. In the late 1990s, Cinergy worked cooperatively with the IDNR and the Service to develop a Habitat Conservation Plan (HCP) regarding continued operation of the facility, and, in late 1999, the Service issued an Incidental Take Permit (ITP) to Cinergy. In 2005, the ITP was renewed. Management of the facility under the HCP has promoted the continued growth of the tern colony. In 2010, an estimated 150 adults, 110 nests, and 165 fledged young were recorded. In addition to the growth in numbers, the tern colony has expanded to areas beyond the original location along a splitter dike adjacent to a cooling pond. Nesting has now been documented on the splitter dike, adjacent to ash ponds, a coal combustion waste landfill, construction areas, and station access roads. The expansion of the tern nesting area presents management challenges for the generating station and associated facilities.

### **Applicant's Proposal**

Duke Power Company purchased and merged with Cinergy Corp. to form Duke Energy Corporation (Duke) in 2006. Duke has continued to operate the facility in accordance with the HCP and the ITP. Duke has applied to the Service for renewal of its ITP number TE016724. An HCP accompanies this renewal application. The HCP describes management activities in and around the Gibson Generating Station, including water management, predator control, and minimization of human disturbance due to recreational use.

Proactive management over the past 25 years has resulted in an increase in the Interior least tern population nesting at Gibson Generating Station and surrounding areas. However, no incidental take of least terns has occurred during that time. Actions that may result in take include human disturbance during management and operations, including foot traffic, vehicle or construction equipment, ash placement, waste disposal, and harassment due to the presence of people and equipment.

Duke proposes to continue to manage its property to protect least terns. In addition, Duke has committed to monitor the result of its activities and the effect on the population of least terns at Gibson Generating Station and the surrounding state and Federal lands.

### **Public Comments**

We seek public review and comments on this permit application. Please refer to permit number TE016724 when you submit comments. The Habitat Conservation Plan, Incidental Take Permit renewal application, and NEPA determination are available for public inspection on the Midwest Region website at <http://www.fws.gov/midwest/endangered/permits/hcp/r3hcps.html>. In addition, the documents are available for public inspection by appointment during normal business hours (8 a.m. to 4:30 p.m.) at the U.S. Fish and Wildlife Service, Midwest Regional Office, 5600 American Blvd., West, 10th Floor, Bloomington, Minnesota 55437-1458, (612-713-5194) and at the U.S. Fish and Wildlife Service, Ecological Services Field Office, 620 South Walker Street, Bloomington, Indiana 47403 (812-334-4261).

## **Public Availability of Comments**

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

## **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

**Dated: May 29, 2018**

Sean O. Marsan,  
Acting Assistant Regional Director,  
Ecological Services,  
Midwest Region.

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