



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2019–0116; FXES11140900000–190–FF08E00000]

Endangered and Threatened Species; Receipt of Incidental Take Permit Application and Habitat Conservation Plan for the Proposed Rooney Ranch Wind Repowering Project, Alameda County, California; Availability of Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application for an incidental take permit under the Endangered Species Act (ESA) permit to conduct activities with the potential for take of endangered and threatened species that is incidental to, and not the purpose of, carrying out otherwise lawful activities. We invite comments on the applicant’s permit application and habitat conservation plan (HCP), and

the associated environmental assessment, which we have prepared pursuant to the National Environmental Policy Act. We will take comments into consideration before issuance of the requested permit.

DATES: To ensure consideration, please send your written comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:*

- **Electronic copies:** The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. **FWS–R8–ES–2019–0116** at <http://www.regulations.gov>.

You may also obtain electronic copies of the draft Rooney Ranch Wind Repowering Project Habitat Conservation Plan (draft HCP) and draft environmental assessment (EA) from the Sacramento Fish and Wildlife Office website at <http://www.fws.gov/sacramento>. (See **FOR FURTHER INFORMATION CONTACT.**)

Submitting Comments: You may submit comments by one of the following methods:

- ***Internet:*** <http://www.regulations.gov>. Follow the instructions for submitting comments under Docket No. **FWS–R8–ES–2019–0116**.

- **U.S. mail:** Public Comments Processing; Attn: Docket No. FWS–R8–ES–2019–0116; U.S. Fish and Wildlife Service Headquarters, MS: PERMA; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see **Public Comment Procedures** under **SUPPLEMENTARY INFORMATION**.

- **Facsimile:** 916–414–6713, attn. Ryan Olah.

We request that you send comments by only the methods described above.

FOR FURTHER INFORMATION CONTACT: Claudia Funari, Fish and Wildlife Biologist, Sacramento Fish and Wildlife Office (see **ADDRESSES**), 916–414–6600 (telephone). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, have prepared an environmental assessment under the National Environmental Policy Act (NEPA) for the proposed Rooney Ranch Wind Repowering Project in response to an application from Rooney Ranch Wind, LLC (applicant) for a 36-year incidental take permit for three species under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The application addresses the potential for “take” of the following three federally listed animals: the Central California distinct population segment of the California tiger salamander (*Ambystoma californiense*) (central CTS), the California red-legged frog (*Rana draytonii*), and the San Joaquin kit fox (*Vulpes macrotis mutica*). The

applicant would implement a conservation program to minimize and mitigate the project impacts, as described in the applicant's habitat conservation plan (HCP). We invite comments on the applicant's permit application, HCP, and the associated EA, which we have prepared pursuant to the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6. We will take comments into consideration before issuance of the requested permit.

The applicant has submitted a draft HCP as part of the application for an ITP under section 10(a)(1)(B) of the ESA. The draft HCP includes measures necessary to minimize and mitigate the impacts, to the maximum extent practicable, of potential taking of federally listed species to be covered by the HCP, and the habitats upon which they depend, resulting from construction and operation of the proposed Rooney Ranch Wind Repowering Project within the project area, to include portions of the Altamont Pass Wind Resource Area (APWRA) in Alameda County, California.

Background Information

Section 9 of the ESA prohibits the take of fish or wildlife species listed as endangered; as applicable to the species affected by the proposed action, the ESA implementing regulations also prohibit take of fish or wildlife species listed as threatened, with exceptions for certain ranching activities on private and tribal lands as described in 50 C.F.R. 17.43(c)(3)(i)-(xi) and 50 C.F.R. 17.43(d)(3)(i)-(xi). Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32.

For more about the Federal habitat conservation plan (HCP) program, go to <http://www.fws.gov/endangered/esa-library/pdf/hcp.pdf>.

The National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requires Federal agencies to analyze their proposed actions to determine whether the actions may significantly affect the human environment. In these NEPA analyses, the Federal agency will identify direct, indirect, and cumulative effects, as well as possible mitigation for effects on environmental resources that could occur with implementation of the proposed action and alternatives.

Proposed Action Alternative

We would issue an ITP to the applicant for a period of 36 years for certain covered activities (described below). The applicant has requested an ITP for three federally listed species. The HCP addresses four types of proposed activities (referred to as covered activities in the HCP): (1) Construction of facilities, (2) operation and maintenance (O&M) of facilities, (3) conservation actions, and (4) restoration actions. The project would consist of the installation of large-scale modern wind turbines with generating capacities between 2.3 and 4.0 megawatts (MW), all generally similar in size and appearance, to develop up to 25.1 MW. The proposed layout would include seven new-generation wind turbines. Generally, existing roads would be used, with temporary widening of approximately 2.7 miles of roads and construction of approximately 0.3 mile of new roads. An existing on-site substation, consisting of an approximately 0.2-acre

gravel-covered footprint area, may be expanded by 0.1 acre to accommodate installation of upgraded equipment. Construction activities would result in 1.8 acres of permanent impacts to landcover from the installation of facilities, roads, and turbine structures. Construction activities would also result in 42.9 acres of temporary land cover impacts from activities such as grading, trenching, excavation, access roads, and staging areas. Operations and maintenance activities would result in temporary landcover disturbance of up to 3.0 acres over the life of the permit. The project would result in 1.8 acres of permanent impacts (construction) and 45.9 acres of temporary impacts (construction + operations/maintenance).

Habitat Conservation Plan Area

The geographic scope of the draft HCP area comprises two separate permit areas: the project permit area and the mitigation permit area. The project permit area encompasses approximately 582 acres within the APWRA in eastern Alameda County, California, consisting of two Santa Clara City-owned parcels between I-580 to the south and Altamont Pass Road to the north. The repowering project would be constructed entirely within the project permit area. The mitigation permit area comprises potential mitigation lands, still to be identified, that the applicant, in coordination with the Service, is evaluating in Alameda County. Based on where the mitigation lands are located in the County, the estimated acreage required of the mitigation site would range from 48.3 to 51.3 acres. When the permit areas are combined, the HCP area will cover approximately 633.3 acres.

Covered Activities

The proposed ESA section 10 ITP would allow take of three covered species resulting from certain covered activities in the proposed HCP area. The proposed covered activities under this HCP include constructing and installing seven wind turbines and associated electrical facilities and access roads, installing a meteorological tower, a power collection system, expanding a substation as well as maintaining the new wind turbines and the associated facilities, and restoring the site. Specifically, proposed covered activities include grading, excavating to support access roads, trenching to install underground electrical lines, installing erosion-control measures during construction and maintenance covered activities, installation or temporary expansion of gravel roads, pouring a cement footing to support each turbine, installing of other infrastructure, gravel placement for road maintenance, vehicle travel, transport of equipment and supplies, and other similar actions necessary to support the construction, maintenance, and operation of the proposed Rooney Ranch Wind Repowering Project. All activities associated with monitoring and maintenance of habitat and listed species populations within the mitigation site would also be considered covered activities.

The applicant proposes to avoid, minimize, and mitigate the effects to the covered species associated with the covered activities by fully implementing the HCP. The following mitigation measures will be implemented for covered species as part of the HCP: Minimize impact area; avoid injury of covered species during implementation of covered activities through such measures as seasonal and daytime work limitation, the

presence of a biological monitor, and the placement of wildlife exclusionary fencing in key areas; avoid habitat impacts associated with erosion and sedimentation generated by covered activities; minimize the risk of project-related toxic spills that could adversely affect listed species habitat; restore all temporarily disturbed listed species' habitat in the HCP area to pre-project conditions within 1 year of disturbance; ensure implementation of the avoidance and minimization measures; offset unavoidable impacts on covered species through the purchase of approximately 48.3 to 51.3 acres of covered species habitat to ensure that temporary and permanent effects are mitigated.

Covered Species

The applicants have requested an ITP for three federally listed threatened species: the threatened California red-legged frog (*Rana draytonii*), the threatened Central California distinct population segment (DPS) of the California tiger salamander (*Ambystoma californiense*) (Central California tiger salamander), and the endangered San Joaquin kit fox (*Vulpes macrotis mutica*). All species included on the ITP would receive assurances under the Service's "No Surprises" regulations at 50 CFR 17.22(b)(5).

National Environmental Policy Act Compliance

The draft EA was prepared to analyze the impacts of issuing an ITP based on the draft HCP and to inform the public of the proposed action, alternatives, and associated impacts and to disclose any irreversible commitments of resources. The proposed action presented in the draft EA will be compared to the no-action alternative. The no-action

alternative represents estimated future conditions to which the proposed action's estimated future conditions can be compared. Other alternatives were not considered or addressed in the draft EA, because they did not fulfill the purpose and need of the project.

No Action Alternative

Under the no-action alternative, the HCP would not be implemented, and the proposed ITP would not be issued. There would be no take of federally listed species as a result of the project. This alternative assumes that existing wind power production facilities and approved repowering wind production facilities in the APWRA would continue to operate into the future.

Environmental Review and Next Steps

As described in our EA, we have made the preliminary determination that approval of the draft HCP and issuance of the permit would qualify as finding of no significant impact (FONSI) under NEPA (42 U.S.C. 4321 *et seq.*), as provided by Federal regulations (40 CFR 1500.5(k), 1507.3(b)(2), 1508.4) and the Department of the Interior Manual. Our EA articulates the project effects on all potential resources that could be adversely affected, including aesthetics, air quality and climate change, biological resources, cultural resources, geology, hazardous materials and public safety hazards, hydrology and water quality, noise, and traffic and transportation. It also includes an analysis of alternatives and other required analysis such as unavoidable adverse effects, irreversible and irretrievable commitments of resources, and finally, short-term uses

versus long-term productivity and cumulative effects.

Public Comment Procedures

All comments and materials we receive in response to these requests will be available for public review at <http://www.regulations.gov>.

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 ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so

Next Steps

Issuance of an ITP is a Federal proposed action subject to compliance with NEPA. The FWS will evaluate the application, associated documents, and any public comments we receive to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the ESA. If the FWS determines that those requirements are met, we will issue a permit to the applicant for the incidental take of the covered species from the implementation of the covered activities described in the HCP. A permit decision will be made no sooner than 30 days after the date of publication of this notice in the *Federal Register*.

Authority

We issue this notice pursuant to section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32), and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

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