



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2020–0128; FXES11140300000-212]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Rosewater Wind Farm, White County, Indiana; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of documents; request for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Rosewater Wind Farm LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act (ESA), for its Rosewater Wind Farm (project). If approved, the ITP would be for a 6-year period and would authorize the incidental take of an endangered species, the Indiana bat, and a threatened species, the northern long-eared bat. The applicant has prepared a habitat conservation plan that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the Indiana bat and northern long-eared bat. We request public comment on the application, which includes the applicant’s proposed habitat conservation plan (HCP), and on the Service’s preliminary determination that this HCP qualifies as “low-effect,” categorically excluded under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also able for public review.

DATES: We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: *Document availability:* Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS–R3–ES–2020–0128 at <http://www.regulations.gov>.

Comment submission: In your comment, please specify whether your comment addresses the proposed HCP, draft environmental action statement, or any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Search for and submit comments on Docket No. FWS–R3–ES–2020–0128.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R3–ES–2020–0128; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Scott Pruitt, Field Supervisor, Bloomington Ecological Services Field Office, U.S. Fish and Wildlife Service, 620 South Walker Street, Bloomington, IN 47403; telephone: 812–334–4261, extension 214; or Andrew Horton, Regional HCP Coordinator, U.S. Fish and Wildlife Service – Interior Region 3, 5600 American Blvd., West, Suite 990, Bloomington, MN 55437–1458; telephone: 612–713–5337.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, have received an application from Rosewater Wind Farm LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the 6-year ITP to take the federally listed Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) incidental to the operation of 25 wind turbines with a total generating capacity of 102

megawatt (MW) at the Rosewater Wind Farm in White County, Indiana. While the ITP is for 6 years, the operational life of most new wind energy facilities is thirty years and intensive monitoring conducted during this permit term will inform the need for future avoidance or a new long-term ITP for the remaining life of the project that will comply with a new NEPA analysis and habitat conservation plan (HCP). The applicant has prepared a HCP that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the covered species for the first 6 years. We request public comment on the application, which includes the applicant's proposed HCP, and on the Service's preliminary determination that this HCP qualifies as "low-effect," categorically excluded under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

Background

Section 9 of the ESA and its implementing regulations prohibit the "take" of animal species listed as endangered or threatened. Take is defined under the ESA as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [listed animal species,] or to attempt to engage in any such conduct" (16 U.S.C. 1532). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. "Incidental take" is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (16 U.S.C. 1539). Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Applicant's Proposed Project

The applicant requests a 6-year ITP to take the federally endangered Indiana bat (*Myotis sodalis*) and threatened northern long-eared bat (*Myotis septentrionalis*). The

applicant determined that take is reasonably certain to occur incidental to operation of 25 previously constructed wind turbines in White County, Indiana, consisting of approximately 6,381 acres of private land. The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the covered activity on the covered species. The biological goals and objectives are to minimize potential take of Indiana bats and northern long-eared bats through onsite minimization measures and to provide habitat conservation measures for Indiana bats and northern long-eared bats to offset any impacts from operations of the project. The HCP provides on-site avoidance and minimization measures, which include turbine operational adjustments. The authorized level of take from the project is 18 Indiana bats and 18 northern long-eared bats over the 6-year permit duration. To offset the impacts of the taking of Indiana bats and northern long-eared bats, the applicant will implement one or more of the following mitigation options: Purchase credits from an approved conservation bank, contribute to an in-lieu fee mitigation fund, implement permittee responsible mitigation project, or contribute to a white-nose syndrome treatment fund if such a fund is established during the permit term.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. The Service has made a preliminary determination that the applicant's project and the proposed mitigation measures would individually and cumulatively have a minor or negligible effect on the covered species and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion, and the HCP would be low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) incremental

impacts from the federal action that, when added to other past, present, and reasonable foreseeable future actions, would not result in significant cumulative effects to environmental values or resources over time.

Next Steps

The Service will evaluate the application and the comments received to determine whether the permit application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

Request for Public Comments

The Service invites comments and suggestions from all interested parties on the proposed HCP and screening form during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. Whether adaptive management, monitoring and mitigation provisions in the proposed HCP are sufficient;
2. The requested 6-year ITP term;
3. Any threats to the Indiana bat and the northern long-eared bat that may influence their populations over the life of the ITP that are not addressed in the proposed HCP or screening form;
4. Any new information on white-nose syndrome effects on the Indiana bat and the northern long-eared bat;
5. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and

6. Any other information pertinent to evaluating the effects of the proposed action on the human environment, including those on the Indiana bat and the northern long-eared bat.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on <http://regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will 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 the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director,

Ecological Services.

[FR Doc. 2020-27102 Filed: 12/9/2020 8:45 am; Publication Date: 12/10/2020]