



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R3-ES-2020-0045; FXES11140300000-212]

### **Draft Environmental Assessment and Proposed Habitat Conservation Plan; Receipt of an Application for an Incidental Take Permit, Bluff Point Wind Energy Center, Jay and Randolph Counties, Indiana**

**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 (Service), have received an application from NextEra Energy Bluff Point LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA), for its Bluff Point Wind Energy Center (project). If approved, the ITP would be for a 30-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 (HCP) 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 also announce the availability of a draft Environmental Assessment (DEA), which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act (NEPA). We request public comment on the application, the DEA, and associated documents.

**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:*

*Internet:* Electronic copies of the documents this notice announces will be available online in Docket No. FWS-R3-ES-2020-0045 at <http://www.regulations.gov>. Public comments will also be available online at <http://www.regulations.gov>.

*Comment submission:* In your comment, please specify whether your comment addresses the proposed HCP, draft EA, 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–2020–0045.
- *By hard copy:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS–R3–ES–2020–0045; 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, Indiana, 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 or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

## **SUPPLEMENTARY INFORMATION**

### **Background**

Section 9 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), 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 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 30-year ITP to take the federally endangered Indiana bat (*Myotis sodalis*) and threatened northern long-eared bat (*Myotis septentrionalis*) at the Bluff Point Wind Resource Area (BPWRA) in Jay and Randolph Counties, consisting of approximately 23,613 acres of private land. The applicant determined that unavoidable take is reasonably certain to occur incidental to operation of 57 previously constructed wind turbines. 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 on-site minimization measures and to provide habitat conservation measures for Indiana bats and northern long-eared bats to offset any unavoidable impacts from operations of the project. The BPWRA includes confirmed Indiana bat summer roost habitat and northern long-eared bat summer maternity habitat. The HCP provides on-site avoidance and minimization measures, which include seasonal turbine operational curtailment and adaptive management measures that allow for modifications to the minimization and mitigation measures based on monitoring results and other triggers, and a 1,000 foot minimization buffer during the summer season to protect potential summer habitat for both covered species. Based on the available data, the predicted level of take is anticipated to be 63 Indiana bats and 32 northern long-eared bats over the 30-year permit term. However, the applicant requests a permit to take 165 Indiana bats and 84 northern long-eared bats over the 30-year permit term due to the uncertainty associated with estimating take and the exact (or specific) reduction in fatalities from the minimization without facility specific data. To fully offset the impacts of the taking of 122 Indiana bats and 42 northern long-eared bats, the applicant proposes to protect in perpetuity 77.2 acres of known maternity colony habitat and staging/swarming habitat through a conservation easement held by a 501(c)3 non-

profit at a Land of Indiana site in Greene County, Indiana through a third-party mitigation provider, First Indiana Resources, LLC. The HCP includes adaptive management measures if mitigation is insufficient to fully offset the impact of the actual take determined through mortality monitoring.

### **National Environmental Policy Act**

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 *et seq.*). We prepared a draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: A no-action alternative, the applicant's proposed action, and a more restrictive alternative consisting of feathering turbines at a rate of wind speed that results in less impacts to bats.

### **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 (16 U.S.C. 1531 *et seq.*). 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.

### **Public Comments**

The Service invites the public to comment and suggestions from all interested parties on the proposed HCP and draft EA and supporting documents 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 Action alternative are sufficient;
2. 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 draft EA;

3. Any new information on white-nose syndrome effects on the Indiana bat and the northern long-eared bat;
4. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed;
5. Any other information pertinent to evaluating the effects of the proposed action on the Indiana bat, the northern long-eared bat and the human environment; and
6. The direct, indirect, or cumulative effects that implementation of any alternative could have on the human environment.

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. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

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