



**Billing Code 4310–55**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R3–ES–2016–N089; FF03E00000-FXES11120300000-167]**

**Draft Environmental Assessment, Draft Habitat Conservation Plan, and Draft Implementing Agreement; Receipt of an Application for an Incidental Take Permit, Wildcat Wind Farm, Madison and Tipton Counties, Indiana**

**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 from Wildcat Wind Farm I, LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA), for its Wildcat Wind Farm (Wildcat) (project). If approved, the ITP would be for a 28-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 draft 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. The ITP application also includes a draft implementing agreement (IA). 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 and associated documents.

**DATES:** We will accept comments received or postmarked on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** *Document availability:*

- *Internet:* You may obtain copies of the documents on the Internet at <http://www.fws.gov/midwest/angered/permits/hcp/wildcat/>.
- *U.S. Mail:* You can obtain the documents by mail from the Indiana Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).
- *In-Person:* To view hard copies of the documents in person, go to one of the Ecological Services Offices (8 a.m. to 4 p.m.) listed under **FOR FURTHER INFORMATION CONTACT**.

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

- *Electronically:* Submit by email to [CommentBFO@fws.gov](mailto:CommentBFO@fws.gov).
- *By hard copy:* Submit by U.S. mail or hand-delivery to U.S. Fish and Wildlife Service; Bloomington Ecological Services Field Office; 620 S. Walker Street; Bloomington, IN 47403.

**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

**SUPPLEMENTARY INFORMATION:** We have received an application from Wildcat Wind Farm I LLC (WWF) for an incidental take permit under the ESA (16 U.S.C. 1531 et seq.). If approved, the ITP would be for a 28-year period and would authorize incidental take of the endangered Indiana bat (*Myotis sodalis*) and the threatened northern long-eared bat (*Myotis septentrionalis*).

The applicant has prepared a draft HCP that covers the operation of the Wildcat Wind Farm (Wildcat). The project consists of a wind-powered electric generation facility located in an approximately 24,434-acre area in Madison and Tipton Counties, Indiana. The draft HCP describes the following: (1) Biological goals and objectives of the HCP; (2) covered activities; (3) permit duration; (4) project area; (5) alternatives to the taking that were considered; (5) public participation; (6) life history of the Indiana bat and northern long-eared bat; (6) quantification of the take for which authorization is requested; (7) assessment of direct and indirect effects of the taking on the Indiana bat within the Midwest Recovery Unit (as delineated in the 2007 Indiana Bat Draft Recovery Plan, Service) and rangewide; (8) assessment of direct and indirect effects of the taking on the northern long-eared bat within the Service's Midwest region and range wide; (9) conservation program consisting of avoidance and minimization measures, mitigation, monitoring, and adaptive management; (10) funding for the HCP; (11) procedures to deal with changed and unforeseen circumstances; and (12) methods for ITP amendments.

In addition to the draft HCP, the applicant has prepared a draft IA to document the responsibilities of the parties. The Service invites comment on the IA as well as the applicant's HCP.

Under the NEPA (43 U.S.C. 4321 et seq.) and the ESA, the Service announces that we have gathered the information necessary to:

1. Determine the impacts and formulate alternatives for an EA related to:
  - a. Issuance of an ITP to the applicant for the take of the Indiana bat and the northern long-eared bat, and
  - b. Implementation of the associated HCP; and
2. Evaluate the application for ITP issuance, including the HCP, which provides measures to minimize and mitigate the effects of the proposed incidental take of the Indiana bat and the northern long-eared bat.

## **Background**

The WWF application is unusual in that the wind facility has been operational since 2012. The project includes 125 GE 1.6- megawatt (MW) wind turbines and has a total energy capacity of 200 MW. The need for the proposed action (i.e., issuance of an ITP) is based on the potential that operation of the Wildcat Wind Farm could result in take of Indiana bats and northern long-eared bats.

The HCP provides a detailed conservation plan to ensure that the incidental take caused by the operation of the project will not appreciably reduce the likelihood of the survival and recovery of the Indiana bat and northern long-eared bat, and provides mitigation to fully offset the impact of the taking. Further, the HCP provides a long-term

monitoring and adaptive management strategy to ensure that the ITP terms are satisfied, and to account for changed and unforeseen circumstances.

### **Purpose and Need for Action**

In accordance with NEPA, the Service has prepared an EA to analyze the impacts to the human environment that would occur if the requested ITP were issued and the associated HCP were implemented.

### **Proposed Action**

Section 9 of the ESA prohibits the “taking” of threatened and endangered species. However, provided certain criteria are met, the Service is authorized to issue permits under section 10(a)(1)(B) of the ESA for take of federally listed species when, among other things, such a taking is incidental to, and not the purpose of, otherwise lawful activities. Under the ESA, the term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect endangered and threatened species, or to attempt to engage in any such conduct. Our implementing regulations define “harm” as an act which actually kills or injures wildlife, and such act may include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Harass, as defined, means “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering” (50 CFR 17.3).

The HCP analyzes, and the ITP would cover, take from harassment and harm, and

killing of bats due to the operation of the Wildcat project. If issued, the ITP would authorize incidental take consistent with the applicant's HCP and the ITP. To issue the ITP, the Service must find that the application, including its HCP, satisfies the criteria of section 10(a)(1)(B) of the ESA and the Service's implementing regulations at 50 CFR parts 13 and 17.22. If the ITP is issued, the applicant would receive assurances under the Service's No Surprises policy, as codified at 50 CFR 17.22(b)(5).

The applicant proposes to operate a maximum of 125 wind turbines and associated facilities (described below) for a period of 28 years in Madison and Tipton Counties, Indiana. The project will consist of wind turbines, associated access roads, an underground and aboveground electrical collector system, one substation containing transformers that feed electricity into an existing 138-kilovolt (kV) electrical tie-in line (an approximately 1.5-mile-long line that connects the substation to the switching station), three permanent meteorological towers, and an operations and maintenance building. Project facilities and infrastructure is placed on private land via long-term easement agreements between the applicant and respective landowners.

The draft HCP describes the impacts of take associated with the operation of the Wildcat Wind Farm and includes measures to avoid, minimize, mitigate, and monitor the impacts of incidental take on the Indiana bat and the northern long-eared bat. The applicant will mitigate for take and associated impacts through protection and restoration of maternity colony habitat at one or more documented maternity colonies. Maternity colony habitat mitigation, including any restored habitat, will occur on private land and be permanently protected by restrictive covenants approved by the Service. Chapter 5 of the HCP describes the Conservation Program, including details of avoidance and

minimization measures, compensatory mitigation, and adaptive management that will limit and mitigate for the take of Indiana bats and northern long-eared bats.

The Service is soliciting information regarding the adequacy of the HCP to avoid, minimize, mitigate, and monitor the proposed incidental take of the covered species and to provide for adaptive management. In compliance with section 10(c) of the ESA (16 U.S.C. 1539(c)), the Service is making the ITP application materials available for public review and comment as described above.

We invite comments and suggestions from all interested parties on the draft documents associated with the ITP application (HCP, HCP Appendices, and IA), and request that comments be as specific as possible. In particular, we request information and comments on the following topics:

1. Whether adaptive management and monitoring provisions in the Proposed Action alternative are sufficient;
2. Any threats to the Indiana bat and the northern long-eared bat that may influence its population over the life of the ITP that are not addressed in the draft HCP or draft EIS;
3. Any new information on white-nose syndrome effects on the Indiana bat and the northern long-eared bat; and
4. Any other information pertinent to evaluating the effects of the proposed action on the Indiana bat and the northern long-eared bat.

### **Alternatives in the Draft EA**

The DEA contains an analysis of four alternatives: (1) No Action alternative, in

which all 125 turbines would be feathered up to 5.0 meters per second (m/s) from ½ hour before sunset to ½ hour after sunrise from March 15 through May 15, and all turbines would be feathered up to 6.9 m/s from ½ hour before sunset to ½ hour after sunrise from August 1 through October 15, the primary spring and fall migratory periods of the Indiana bat and the northern long-eared bat, each year during the operational life (27 years) of Wildcat; (2) the 5.0 m/s Cut-In Speed (feathered) Alternative including implementation of the HCP and Issuance of a 28-year ITP; (3) the 6.5 m/s Cut-In Speed (feathered) Alternative, including implementation of the HCP and issuance of a 28-year ITP; and (4) the 4.0 m/s Cut-In Speed (Feathered) Alternative, including implementation of the HCP and Issuance of a 28-year ITP. The DEA considers the direct, indirect, and cumulative effects of the alternatives, including any measures under the Proposed Action alternative intended to minimize and mitigate such impacts. The DEA also identifies three additional alternatives that were considered but were eliminated from consideration as detailed in Section 3.4 of the DEA.

The Service invites comments and suggestions from all interested parties on the content of the DEA. In particular, information and comments regarding the following topics are requested:

1. The direct, indirect, or cumulative effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
3. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

## **Public Comments**

You may submit your comments and materials concerning the notice by one of the methods listed in **ADDRESSES**. We request that you send comments only by one of the methods described in **ADDRESSES**.

Comments and materials we receive, as well as documents associated with the notice, will be available for public inspection by appointment, during normal business hours, at the Indiana Ecological Services Field Office in Bloomington, Indiana (see **FOR FURTHER INFORMATION CONTACT**).

## **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), the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR Part 46), and the NHPA (16 U.S.C. 470 *et seq.*) and its implementing regulations (36 CFR 800).

Dated: May 25, 2016.

**Lynn Lewis,**

*Assistant Regional Director,*

*Ecological Services,*

*Midwest Region.*

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