

Appendix B: Intra-service Section 7 Biological Evaluation

Intra-Service Section 7 Biological Evaluation Form
Region 3

Originating Person: Sara Schmuecker Date Submitted: 01/23/2018

For assistance with section 7 reviews, go to Region 3's Section 7 Technical Assistance website: <http://www.fws.gov/midwest/endangered/section7/s7process/>

I. Service Program and Geographic Area or Station Name: Migratory Birds Program, Illinois-Iowa Field Office, Moline, Illinois

II. Location: Location of the project including County, State and TSR (township, section & range):

Project Name: Rock Creek Wind Facility

County: Atchison, **State:** Missouri,

Township: 66N; **Sections:** 4, 5, 8, 9, 16, 17, 19, 20, 21, 29, 30, 31, 32, 33; **Range:** 38W

Township: 66N; **Sections:** 25, 36; **Range:** 39W

Township: 65N; **Sections:** 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36; **Range:** 39W

Township: 65N; **Sections:** 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 29, 30, 31, 32; **Range:** 38W

Township: 64N; **Sections:** 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, 32; **Range:** 38W

Township: 64N; **Sections:** 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24; **Range:** 39W

Township: 63N; **Sections:** 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, 32; **Range:** 38W

Township: 63N; **Sections:** 13, 24, 25, 36; **Range:** 39W

III. Species/Critical Habitat: List federally-listed, proposed, and candidate species or designated or proposed critical habitat that may occur within the action area:

Federally listed species within Atchison County, MO:

Indiana bat (*Myotis sodalis*)

Northern long-eared bat (*Myotis septentrionalis*)

Least tern (*Sterna antillarum*)

Piping plover (*Charadrius melodus*)

Rufa red knot (*Calidris canutus rufa*)

Pallid sturgeon (*Scaphirhynchus albus*)

Western prairie fringed orchid (*Plantantera praeclara*)

IV. Project Description: Describe the proposed project or action, including all conservation elements. If referencing other documents, prepare an executive summary. Include map and photos of site, if possible. (Attach additional pages as needed):

The Project action includes the issuance of a 30-year bald eagle incidental take permit for operation of the Rock Creek Wind Facility (RCW). The Rock Creek Wind Facility consists of 150 Vestas V110 2.0 megawatt (MW) wind turbines. The turbines were constructed in 2017 and became operational at the end of December 2017. The facility is owned, operated and controlled by RCW. The Project is located on approximately 56,865 acres within Atchison County, Missouri and is designed to generate approximately 300 MW of electricity over an operation life of at least 30 years.

The wind turbine generators constructed for the Project are the primary component that may cause take of the Indiana bat and northern long-eared bat.

V. Determination of Effects:

A. Description of Effects: Describe how the action(s) will affect the species and critical habitats listed in item III, including how Part IV conservation elements benefit or avoid adverse effects. Your rationale for the Section 7 determinations made below (VB.) should be fully described here.

Pre-construction acoustics and mist-netting bat surveys protocols were coordinated with the Service and conducted in 2015. There were no *Myotis* calls detected through the acoustics efforts and no *Myotis* captured during mist netting efforts. There are no known records of Indiana bat in Atchison County, or further west or north, thus this area is at the extreme limit of the species range. There is also no known northern long-eared bat hibernacula or roosts within Atchison County. However, there was a recent discovery of one northern long-eared bat taken at a wind facility located north of the Project area approximately 12 miles.

Post-construction bat and bird monitoring will be conducted by a third-party for the first two years of operation, with operations staff continuing monitoring during years three through five, pending review of third-party monitoring results. Post-construction monitoring and adaptive management protocols are documented in the Bird and Bat Conservation Strategy (BBCS) for the Rock Creek Wind Energy Project prepared by Rock Creek Wind Project, LLC in December 2016 (updated December 2017) and the Eagle Conservation Plan (ECP) prepared for the Rock Creek Wind Project, LLC in July 2016 (updated December 2017).

The monitoring and adaptive management protocols along with the scheduled review periods documented within the BBCS and ECP will provide the Service the opportunity to continuously monitor and reassess the potential for adverse impacts to listed bat species. This approach will allow the Service to work with the Applicant to apply appropriate adaptive management techniques, as necessary.

The action of this consultation includes assessment of the issuance of a 30-year bald eagle incidental take permit for the operation of the Rock Creek Wind facility only, and therefore does not include actions associated with the construction of the wind facility, including tree clearing.

For the above reasons, we have determined the proposed issuance of the 30-year bald eagle incidental take permit may affect, but is not likely to adversely affect the Indiana bat.

The project is likely to adversely affect the northern long-eared bat; however, there are no effects beyond those previously disclosed in the Service's programmatic biological opinion for the final 4(d) rule dated January 5, 2016. Any taking that may occur incidental to this project is not prohibited under the final 4(d) rule (50 CFR §17.40(o)). This project is consistent with the description of the proposed action in the programmatic biological opinion, and the 4(d) rule does not prohibit incidental take of the northern long-eared bat that may occur as a result of this project.

This project will also have no effect on the least tern, piping plover, rufa red knot, pallid sturgeon, and western prairie fringed orchid due to lack of suitable habitat.

B. Determination: Determine the anticipated effects of the proposed project on species and critical habitats listed in item III. Check all applicable boxes and list the species (or attach a list) associated with each determination. **For assistance with making appropriate Section 7 determinations, go to Region 3's Section 7 Technical Assistance**

website: <http://www.fws.gov/midwest/endangered/section7/s7process/>

Determination

No Effect: This determination is appropriate when the proposed project will not directly or indirectly affect (neither negatively nor beneficially) individuals of listed/proposed/candidate species or designated/proposed critical habitat of such species. No concurrence from ESFO required.

X

Least tern, Piping plover, Rufa red knot, Pallid sturgeon, Western prairie fringed orchid

May Affect but Not Likely to Adversely Affect: This determination is appropriate when the proposed project is likely to cause insignificant, discountable, or wholly beneficial effects to individuals and designated critical habitat. Concurrence from ESFO required.

X

Indiana bat

May Affect and Likely to Adversely Affect: This project is likely to adversely affect the northern long-eared bat; however, there are no effects beyond those previously disclosed in the Service's programmatic biological opinion for the final 4(d) rule dated January 5, 2016. Any taking that may occur incidental to this project is not prohibited under the final 4(d) rule (50 CFR §17.40(o)). This project is consistent with the description of the proposed action in the programmatic biological opinion, and the 4(d) rule does not prohibit incidental take of the northern long-eared bat that may occur as a result of this project. Therefore, the programmatic biological opinion satisfies the Service's responsibilities under ESA section 7(a)(2) relative to the northern long-eared bat for this project. Concurrence from ESFO required.

X

Northern long-eared bat

Not Likely to Jeopardize candidate or proposed species/critical habitat: This determination is appropriate when the proposed project is not expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. Concurrence from ESFO required.

Likely to Jeopardize candidate or proposed species/critical habitat: This determination is appropriate when the proposed project is reasonably expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. Concurrence from ESFO required.

Signature Kristen Lundh Date 2-1-18
Kristen Lundh, Fish and Wildlife Biologist – Illinois-Iowa Field Office

Reviewing Ecological Services Office Evaluation (check all that apply):

A. Concurrence X Nonconcurrence _____
Explanation for nonconcurrence:

B. Formal consultation required _____
List species or critical habitat unit

C. Conference required _____
List species or critical habitat unit

Name of Reviewing ES Office Missouri Field Office

KAREN HERRINGTON
Digitally signed by KAREN
HERRINGTON
Date: 2018.02.02 08:19:24 -06'00'

Signature _____ Date _____