

Appendix C. Intra-Service Section 7 Biological Evaluation

INTRA-SERVICE SECTION 7 BIOLOGICAL EVALUATION FORM

Originating Person: Kirsten McDonnell, Wildlife Biologist

Station: Interior Regions 6 (OK, TX), 7 (NM), and 8 (AZ), Migratory Birds

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Date: July 23, 2021

TAILS: 02ENNM00-2021-I-1338

PROJECT NAME: Oso Grande Wind Farm

Consultation Code: 02ENNM00-2021-SLI-1338

I. Service Activity (Program): Migratory Bird Permits

II. T&E Species, Candidate and Critical Habitat: from ECOS

SPECIES	CRITICAL HABITAT	LISTING STATUS
Mexican Spotted Owl (<i>Strix occidentalis lucida</i>)	Yes	Threatened
Northern Aplomado Falcon (<i>Femoralis septentrionalis</i>)	No	Experimental population, Non-essential
Piping Plover (<i>Charadrius melodus</i>)	Yes	Threatened
Southwestern Willow Flycatcher (<i>Empidonax trailii extimus</i>)	Yes	Endangered
Pecos Bluntnose Shiner (<i>Notropis simus peconsensis</i>)	Yes	Threatened
Pecos Gambusia (<i>Gambusia nobilis</i>)	No	Endangered
Texas Hornshell (<i>Popenaias popeii</i>)	Proposed	Endangered
Koster's Springsnail (<i>Juturnia kosteri</i>)	Yes	Endangered
Pecos Assiminea Snail (<i>Assiminea pecos</i>)	Yes	Endangered
Roswell Springsnail (<i>Pyrgulopsis roswellensis</i>)	Yes	Endangered
Noel's Amphipod (<i>Gammarus desperatus</i>)	Yes	Endangered
Gypsum Wild-buckwheat (<i>Eriogonum gypsophilum</i>)	Yes	Threatened
Kuenzler Hedgehog Cactus	No	Threatened

(<i>Echinocereus fendleri</i> var. <i>kuenzleri</i>)		
Lee Pincushion Cactus (<i>Coryphantha sneedii</i> var. <i>leei</i>)	No	Threatened
Pecos Sunflower (<i>Helianthus paradoxus</i>)	Yes	Threatened
Sneed Pincushion Cactus (<i>Coryphantha sneedii</i> var. <i>sneedii</i>)	No	Endangered
Wright's Marsh Thistle (<i>Cirsium wrightii</i>)	Proposed	Proposed Threatened

See attached IPaC report dated June 30, 2021

III. Project Location

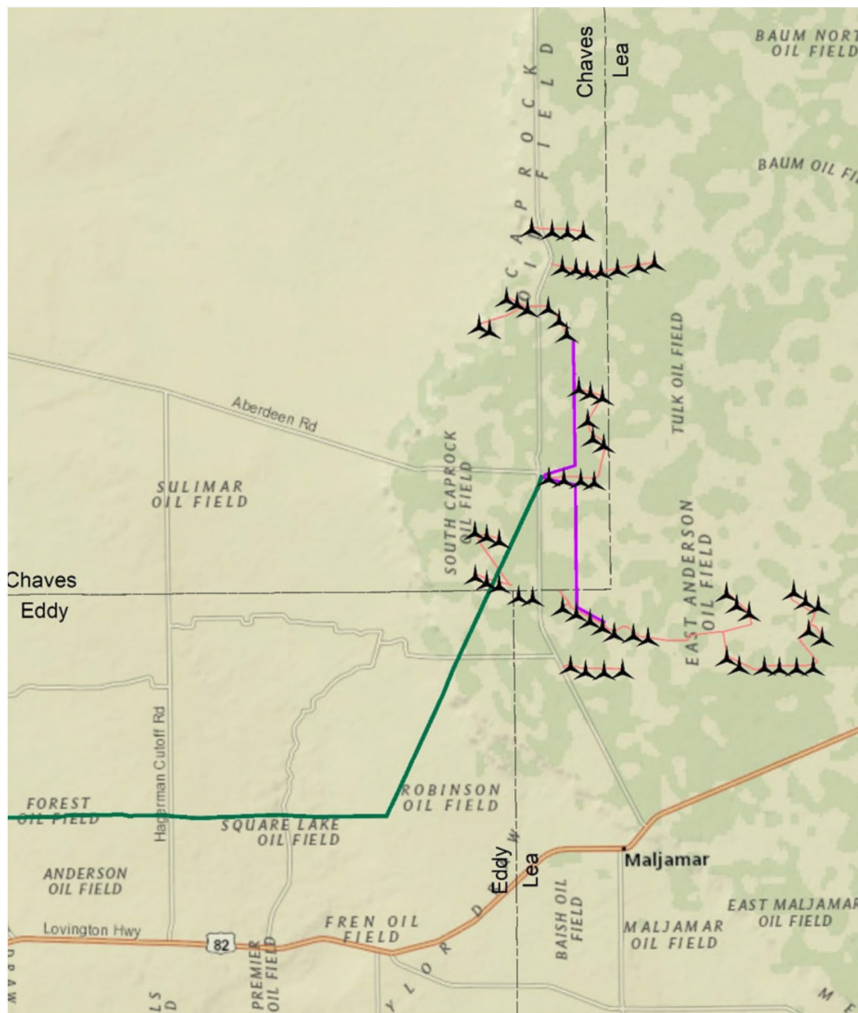


Figure 1. Oso Grande Wind Energy Project map

Ecoregion Number and Name:

High Plains - 25

County:

Chaves, Eddy, and Lea counties, New Mexico

Latitude, Longitude

Approximate center: 33.008199, -103.771874

Distance and direction to nearest town center

The action area is located approximately 10 miles north of Maljamar, New Mexico.

Species/habitat occurrence:

Federally listed species within the Project area include four bird species, two fish species, one clam species, three snail species, one crustacean species, and six flowering plant species. The four listed bird species have a very slight chance of occurring within the Project area, and are unlikely to be effected by the Project. None of the listed species were observed during pre-construction surveys.

The federally listed bird species are Mexican spotted owl (*Strix occidentalis lucida*), Northern aplomado falcon (*Femoralis septentrionalis*), piping plover (*Charadrius melodus*), and southwestern willow flycatcher (*Empidonax trailii extimus*). Other federally listed species identified as potentially occurring do not have suitable habitat present in the Project area. Although the IPaC report states the fish, clam, snail and crustacean species could occur within the Project area, the lack of freshwater habitat required for these species prevents them from occurring within the Project area. Although the IPaC report indicates that six plant species could occur within the Project area, the issuance of the Eagle Incidental Take Permit would not impact the plants because the Project does not include further ground disturbance.

Mexican Spotted Owl

Mexican spotted owls reside in old-growth or mature forests that have different structural components and canyons with riparian or conifer communities (USFWS 2021a). No such habitat is found within or adjacent to the Project area. There is a small chance that dispersing juvenile owls or seasonally migrating adult owls may pass through the Project area. The nearest documented habitat where the species was found in New Mexico is located approximately 85 miles southwest of the Project area in the Guadalupe Mountains (USFWS 2021a). The nearest documented critical habitat is located approximately 100 miles west of the in the Sacramento Mountains (USFWS 2021a). While it is possible for Mexican spotted owls to fly through the Project area, the probability of this occurring is low.

Northern Aplomado Falcon

Northern Aplomado falcons use a variety of habitats to include palm and oak savannahs, various desert grassland associations, and open pine woodlands. The essential habitat areas include open terrain with scattered trees, low ground cover, and plenteous insects, small to medium-sized birds and nesting sites (USFWS 2021b). Due to heavy livestock grazing and oil and gas development, the grassland habitat within the Project area has been degraded over time, limiting the ecological value of the habitat. While it is possible for northern Aplomado falcons to fly through the Project area, the probability of this occurring is low.

Piping Plover

Piping plovers use sparsely vegetated sandbars and reservoir shorelines on river systems, as well as on the shorelines of alkaline lakes for breeding, nesting, and nonbreeding, all of which are not found within the Project area. Piping plovers forage and roost along barrier and mainland beaches, sand, mud, and algal flats, washover passes, salt marshes, and coastal lagoons during the winter. Habitat destruction and degradation of habitat are pervasive and have reduced suitable habitat (USFWS 2021c). No critical habitat exists for the piping plover within New Mexico. While it is possible for the piping plover to fly through Project area during migration, the probability of this occurring is low.

Southwestern Willow Flycatcher

Southwestern willow flycatcher habitat includes riparian areas. Critical habitat for the southwestern willow flycatcher within New Mexico is found along the Middle Rio Grande River between Los Lunas and Elephant Butte Reservoir in central New Mexico, and along the Gila River in southwestern New Mexico (USFWS 2021d). While it is possible for the southwestern willow flycatcher to fly through the Project area during migration, the probability of this occurring is low.

IV. Description of Proposed Action (Attach Additional Pages if Needed):

The project is currently operational. Proposed action at this time is the issuance of a permit for programmatic take of golden eagles.

Mitigation Measures:

Since the project is currently operational, no impacts are anticipated to result from issuance of the permit.

Avoidance and Minimization Requirements:

To offset estimated take of golden eagles, Tucson Electric Power Company will complete power pole retrofits. The final number of retrofits is yet to be determined. This has the potential to benefit Northern Aplomado Falcons.

Implementation of baseline avian fatality monitoring studies following the start of Project operations, consistent with the Project's Bird and Bat Conservation Strategy (Tucson Energy Power Company 2021).

Implementation of a Wildlife Incidental Reporting Program at the start of Project Operations to ensure personnel document Threatened and Endangered bird casualties encountered during routine maintenance work or any time personnel are at the Project.

V. Determination of Effects:

There are no critical habitats located within the Project Area.

A. Explanation of effects of the action on species and critical habitat:

SPECIES/CRITICAL HABITAT	IMPACTS TO SPECIES/CRITICAL HABITAT
Mexican Spotted Owl (<i>Strix occidentalis lucida</i>)	NE No old-growth or mature forests or canyons present within the Project area.
Northern Aplomado Falcon (<i>Femoralis septentrionalis</i>)	NLAA No palm and oak savannahs, desert grassland associations or open pine woodlands within the Project area. The retrofit of power poles has the potential to benefit Northern Aplomado Falcon.
Piping Plover (<i>Charadrius melodus</i>)	NE No shorelines or beaches present within the Project area.
Southwestern Willow Flycatcher (<i>Empidonax trailii extimus</i>)	NE No riparian habitat present within the Project area.
Pecos Bluntnose Shiner (<i>Notropis simus peconsensis</i>)	NE No freshwater present within the Project area.
Pecos Gambusia (<i>Gambusia nobilis</i>)	NE No freshwater present within the Project area.
Texas Hornshell (<i>Popenaias popeii</i>)	NE No freshwater present within the Project area.
Koster's Springsnail (<i>Juturnia kosteri</i>)	NE No freshwater present within the Project area.
Pecos Assiminea Snail (<i>Assiminea pecos</i>)	NE No freshwater present within the Project area.
Roswell Springsnail (<i>Pyrgulopsis roswellensis</i>)	NE No freshwater present within the Project area.
Noel's Amphipod (<i>Gammarus desperatus</i>)	NE No freshwater present within the Project area.
Gypsum Wild-buckwheat (<i>Eriogonum gypsophilum</i>)	NE No ground disturbance for the issuance of an Eagle Incidental Take Permit (ITP).
Kuenzler Hedgehog Cactus (<i>Echinocereus fendleri</i> var. <i>kuenzleri</i>)	NE No ground disturbance for the issuance of an Eagle ITP.
Lee Pincushion Cactus	NE

(<i>Coryphantha sneedii</i> var. <i>leei</i>)	No ground disturbance for the issuance of an Eagle ITP.
Pecos Sunflower (<i>Helianthus paradoxus</i>)	NE No ground disturbance for the issuance of an Eagle ITP.
Sneed Pincushion Cactus (<i>Coryphantha sneedii</i> var. <i>sneedii</i>)	NE No ground disturbance for the issuance of an Eagle ITP.
Wright's Marsh Thistle (<i>Cirsium wrightii</i>)	NE No ground disturbance for the issuance of an Eagle ITP.

B. Explanation of actions to be implemented to reduce adverse effects:

SPECIES/CRITICAL HABITAT	ACTIONS TO MINIMIZE IMPACTS
	See IV above.

VI. Effect determination and response requested:

A. Listed species/designated critical habitat:

SPECIES/CRITICAL HABITAT	DETERMINATION		
	NE	NLAA	LAA
Mexican Spotted Owl (<i>Strix occidentalis lucida</i>)	X		
Northern Aplomado Falcon (<i>Femoralis septentrionalis</i>)		X	
Piping Plover (<i>Charadrius melodus</i>)	X		
Southwestern Willow Flycatcher (<i>Empidonax trailii extimus</i>)	X		
Pecos Bluntnose Shiner (<i>Notropis simus peconsensis</i>)	X		
Pecos Gambusia (<i>Gambusia nobilis</i>)	X		
Texas Hornshell (<i>Popenaias popeii</i>)	X		
Koster's Springsnail (<i>Juturnia kosteri</i>)	X		
Pecos Assiminea Snail (<i>Assiminea pecos</i>)	X		
Roswell Springsnail (<i>Pyrgulopsis roswellensis</i>)	X		
Noel's Amphipod (<i>Gammarus desperatus</i>)	X		

Gypsum Wild-buckwheat (<i>Eriogonum gypsophilum</i>)	X		
Kuenzler Hedgehog Cactus (<i>Echinocereus fendleri</i> var. <i>kuenzleri</i>)	X		
Lee Pincushion Cactus (<i>Coryphantha sneedii</i> var. <i>leei</i>)	X		
Pecos Sunflower (<i>Helianthus paradoxus</i>)	X		
Sneed Pincushion Cactus (<i>Coryphantha sneedii</i> var. <i>sneedii</i>)	X		
Wright's Marsh Thistle (<i>Cirsium wrightii</i>)	X		

DETERMINATION/RESPONSE REQUESTED:

NE = NO EFFECT. No response requested.

NLAA = NOT LIKELY TO ADVERSELY AFFECT. "Concurrence" requested.

LAA = LIKELY TO ADVERSELY AFFECT. "Formal Consultation" requested. "Conference" for proposed/candidate species.

KIRSTEN CRUZ-MCDONNELL

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Signature

Interior Regions 6 (OK, TX), 7 (NM), and 8 (AZ), Migratory Birds

VII. Reviewing ESFO Evaluations:

- A. Concurrence: X Nonconcurrency:
- B. Formal consultation required:
- C. Conference required
- D. Informal conference required
- E. Remarks (attach additional pages as needed):

SHAWN SARTORIUS

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Signature

Date

Field Supervisor

New Mexico Ecological Services Field Office

References

- Tucson Electric Power Company. 2021. Draft Bird and Bat Conservation Strategy for the Oso Grande Wind Energy Project, Chaves, Lea, and Eddy Counties, New Mexico. March 15, 2021.
- U.S. Fish and Wildlife Service (USFWS). 2021a. Mexican spotted owl (*Strix occidentalis lucida*). Environmental Conservation Online System (ECOS), USFWS, Washington, D.C.
- U.S. Fish and Wildlife Service (USFWS). 2021b. Northern aplomado falcon (*Femoralis septentrionalis*). Environmental Conservation Online System (ECOS), USFWS, Washington, D.C.
- U.S. Fish and Wildlife Service (USFWS). 2021c. Piping plover (*Charadrius melodus*). Environmental Conservation Online System (ECOS), USFWS, Washington, D.C.
- U.S. Fish and Wildlife Service (USFWS). 2021d. Southwestern willow flycatcher (*Empidonax trailii extimus*). Environmental Conservation Online System (ECOS), USFWS, Washington, D.C.