

FAQs – Public

What action is being proposed and analyzed?

The U.S. Fish and Wildlife Service is considering whether to issue both a standard and a programmatic eagle take permit (ETP) for non-purposeful take of eagles under the Bald and Golden Eagle Protection Act for construction and operational activities associated with the Chokecherry and Sierra Madre (CCSM) Phase I Wind Energy Project.

Why are we considering this action?

On June 16, 2015, the Power Company of Wyoming LLC (PCW) requested a standard ETP for construction of wind turbines and infrastructure components, and a programmatic ETP for operation of the Chokecherry Sierra Madre (CCSM) Phase I Project.

What is the CCSM Phase I Project?

The Project would include 500 wind turbines on 53,710 acres in Carbon County, Wyoming, south of the city of Rawlins. If the project meets all the necessary approvals, it could become the largest wind facility in the United States.

Why are we issuing a Draft Environmental Impact Statement?

Under the National Environmental Policy Act (NEPA), the United States Fish and Wildlife Service is obligated to review the potential impacts on the natural and human environment associated with issuing an ETP. For this project, the Service has determined an Environmental Impact Statement (EIS) is warranted because the action may significantly impact the environment.

What NEPA analysis has previously occurred for the project?

The Bureau of Land Management (BLM) issued two Final Environmental Impact Statement (FEIS) documents relating to the CCSM Project, which led to the issuance of a Record of Decision in October 2012. BLM's NEPA review determined that portions of the area are suitable for wind development and identified mitigation measures and design features to reduce impacts to the environment. The BLM is now conducting a review of PCW's site-specific development plans for the infrastructure components of the project and Phase I of the wind development. Once NEPA review of these development plans is completed, the BLM will determine whether to issue the right-of-way grant needed by the applicant to begin construction on the project. The BLM finalized one tiered environmental assessment (EA) addressing Phase I haul road, rail and quarry facilities (called EA1) in December 2014. A second tiered EA for Phase I wind turbines, access roads and associated components (called EA2) is currently undergoing a public comment period, which closes April 22, 2016. The BLM's NEPA

Review documents can be found at the following link:

<http://www.blm.gov/wy/st/en/info/NEPA/documents/rfo/Chokecherry.html>

What Will be Reviewed in the Service's EIS?

The Service will analyze the environmental impacts associated with a decision on whether to issue eagle take permits for the construction, operation, maintenance and decommissioning of the project. The EIS will evaluate all reasonable action alternatives and a no-action alternative. The BLM's earlier and current analysis will be incorporated by reference. Impacts to the following resources will be analyzed in detail:

1. Wildlife including bats, eagle prey, sage grouse, migratory birds and raptors
2. Habitat for eagles and other wildlife
3. Eagles at local and regional population levels
4. Cultural resources

What is the Difference Between the BLM EIS and the Service's EIS?

As a permitting agency with jurisdiction over the ETP, the Service has an independent obligation to comply with NEPA to review the ETP application submitted by PCW. While the BLM NEPA documents provide a foundation for the review, the Service's EIS will focus primarily on eagles and related resources (habitat and prey), as well as migratory birds and other wildlife that might be affected by the issuance of an ETP.

The BLM performed a NEPA review because about half of the CCSM project would be located on BLM land and require the issuance of a right-of-way grant. As the agency with jurisdiction to issue the grant, the BLM undertook a tiered NEPA review of the CCSM Phase I project area.

Does the BLM NEPA analysis contain the same information as this Draft EIS being issued by the Service?

Because BLM has also conducted NEPA on the effects of their proposed federal action, which consists of permitting the project on their land, we have incorporated by reference those aspects of their analysis which we do not believe needed updates or added analysis for purposes of our federal action. We have provided updated or additional information and analysis where we believe it is relevant to our proposed action of issuing ETPs for the project.

What is an Eagle Take Permit?

Under the Bald and Golden Eagle Protection Act (BGEPA), eagle take is defined as “to pursue, shoot, shoot at, poison, wound, kill, capture, trap, destroy, molest or disturb an eagle.” An ETP is a permit issued by the Service that authorizes the take of eagles. The Service will issue eagle take permits only after the applicant has committed to undertake all practical measures to avoid and minimize impacts to eagles.

When can ETPs be issued by regulation?

Regulations established in 2009 allow for incidental and nest take. Take permit applications must do the following:

- Be consistent with goal of stable or increasing breeding populations (no net loss).
- Be part of an otherwise lawful activity.
- Comply with all avoidance, minimization, or other mitigation measures determined as reasonable and specified in the terms by the permit.
- Monitor eagle use of important eagle-use areas for up to three years or implement an Eagle Conservation Plan as set forth by the permit.
- Submit an annual report on monitoring activities and eagle mortality. The service will make eagle mortality information from annual reports of programmatic permits available to the public.

What are the types of ETPs being considered?

BGEPA regulations allow for two non-purposeful take permit types; one for standard permits allowing individual instances of take that cannot be practicably avoided, and a second for programmatic permits that provide for recurring take that is unavoidable. The CCSM project proponent has applied for both types of ETPs.

- Standard ETP: The CCSM Phase I standard take permit would last for the duration of construction activities and cover the possibility of golden eagle and bald eagle nest disturbances.
- Programmatic ETP: The CCSM Phase I programmatic take permit would take effect when the first turbine begins operating. The permit would authorize lethal take resulting from collision with turbine blades and be valid for a maximum of five years. It is anticipated that PCW would reapply for a programmatic ETP after each five year permit cycle, for the anticipated operational duration of the CCSM Phase I Project (30 years).

How many eagles might be taken by operation of the CCSM Phase I Project?

The Service uses an independently peer reviewed model to estimate the number of eagles that may be taken by operation of the wind facility. Depending on the size of the turbines that

would be used for the project, that model currently estimates that 10-14 golden eagles and 1-2 bald eagles may be taken annually during operation of the CCSM Phase I Project.

How is this estimate different from previous estimates of eagle take by the project?

The BLM 2012 FEIS estimated that 46-64 golden eagles may be taken annually. However, that estimate was based on a 1,000 turbine project, rather than the currently-proposed 500 turbine CCSM Phase I Project. Also, that estimate was made before PCW worked with the USFWS to develop avoidance and minimization measures to reduce eagle take, and was not calculated using the peer-reviewed fatality model.

What if the project takes more eagles than is authorized in the permit?

Any take in excess of the permit's authorization would be a violation of the Bald and Golden Eagle Protection Act, and therefore subject to potential prosecution. However, the project's Eagle Conservation Plan incorporates reporting and review components intended to allow opportunity for consideration of the need for additional measures if take levels approach permit limits. Additionally, the authorized level of take is intentionally a conservative estimate for precautionary purposes – that is, the permitted number would be towards the higher end of the range of predicted take identified in the model, to better ensure the number of actual eagle fatalities would not exceed the number permitted.

When will the Service decide whether to issue the ETPs for this project?

The Service will not decide whether to issue ETPs until after completion of this NEPA process, through issuance of a Final EIS and Record of Decision, based on all public comments received.

Will the Service also issue permits for CCSM Phase II?

The USFWS is aware that the original BLM 2012 FEIS analyzed the potential for a 1,000-wind turbine project, and that PCW may therefore pursue development of a 500-turbine Phase II project. However, this application received, and all supporting information, is specific to this 500-turbine CCSM Phase I Project. Regardless whether or not the CCSM Phase I Project is permitted to take eagles, PCW would be required to develop and submit an independent Eagle Conservation Plan and application for an eagle take for a potential Phase II, and that application would be considered on its own merits.

What would be the duration of the programmatic ETP for operation of the CCSM Phase I Project, if issued?

Current regulations allow a programmatic ETP to be no longer than five years. While the NEPA analysis must consider the potential effects of the whole action – which means we are

analyzing the potential for the expected 30-year life of this project, PCW would need to apply for a permit renewal in order for eagle take to be permitted beyond five years.

Would the Project be required to perform any mitigation as part of the ETP?

If a programmatic ETP is issued, the project would be required to complete offsetting compensatory mitigation for each golden eagle taken, before that take occurs. This offsetting mitigation must be an action intended to increase the number of golden eagles in the population by the same number predicted to be taken by the project. The ETP application proposes to retrofit existing power poles that have high risk of electrocuting golden eagles, so that the number of golden eagles killed by electrocution would be reduced by the number of eagle predicted to be taken by the wind project, and that proposal is part of the review and analysis in the DEIS.

How did the CCSM Phase I Project develop its Eagle Conservation Plan?

The Eagle Conservation Plan was developed to provide supporting information for the ETP application. The Service provided technical advice during the development of the plan concerning information and measures we believed would be necessary for the project to avoid eagle take sufficient to qualify for an ETP.

Will the CCSM Phase I Project be required to conduct post-construction monitoring?

Post-construction monitoring would be a key requirement of the ETP conditions, and the Service would use this or any other new information both in consideration of a potential permit renewal, and in consideration whether the existing permit must be reconsidered before the five-year term is expired.

What Alternatives are analyzed in the Draft EIS?

In addition to an issuing the ETPs as proposed, the Draft EIS also considers requiring forms of offsetting compensatory mitigation for golden eagles other than retrofitting existing power poles; issuing the ETPs for a smaller portion of the proposed project, if it is determined that CCSM Phase I Project would not meet ETP criteria as proposed; and not issuing the requested ETPs (the “no action” alternative).

What would be the likely result of not issuing the ETPs?

As discussed in the Draft EIS no action alternative, the Service’s authority is to decide whether to issue permits authorizing take of eagles associated with the CCSM Phase I Project. If no such permits are issued, the project may not be built, or the project may be built without those permits. If the project proceeds without ETPs, it may or may not include the eagle conservation

measures proposed in the ETP application. Regardless, any eagle take that may result from the project would be in violation of the Bald and Golden Eagle Protection Act, and thus subject to potential prosecution.

Where will the informational open houses be held?

The public is invited to attend either open house, which will be held as follows:

June 6, 2016

Platte Valley Community Center
210 Elm St
Saratoga, Wyo.
4:30-6:30 p.m.

June 7, 2016

Jeffrey Memorial Community Center
315 W Pine St
Rawlins, Wyo.
4:30-6:30 p.m.

How can I comment on the DEIS?

The DEIS is available for review now at <http://www.fws.gov/mountain-prairie/wind/ChokecherrySierraMadre/index.html>. The Service will be publishing a notice of availability (NOA) for the DEIS in the *Federal Register* in the coming days. Once the NOA publishes, public comments will be accepted for 60-days. You will be able to submit comments electronically via email to ccsm-eis@fws.gov

Comments will also be accepted via U.S. mail or hand-delivery: Chokecherry-Sierra Madre EIS, U.S. Fish and Wildlife Service Mountain-Prairie Region, Attention: Louise Galiher, P.O. Box 25486 DFC, Denver, Colorado 80225