

Intra-Service Section 7 Biological Evaluation Form - Region 7

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Date Submitted: 9/17/2020

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- I. **Service Program and Geographic Area or Station Name:** Migratory Bird Management Program, Lakewood, CO
- II. **Flexible Funding Program** (e.g. Joint Venture, etc.) if applicable:
- III. **Location:** The Glenrock-Rolling Hills Wind Project (Project), a 237 megawatt (MW) wind farm, is located in Converse County Wyoming near the town of Glenrock. Legal location: T 37N, R 75W, Sections 25, 26, 35., T 36 N R 75W, Sections 1-3, 9-12, 13-15, 21, 22, 26-28, 33-35., T 35N R 75 W, Sections 2, 3, 10-12, 13, 14, 23-26.
- IV. **Species/Critical Habitat:** Six species listed as federally endangered or threatened under the Endangered Species Act (ESA) may occur in the Project Area or have potential to be affected by the proposed action. These species include the Ute ladies'-tresses (*Spiranthes diluvialis*), and five Platte river species: least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), whooping crane (*Grus americana*), pallid sturgeon (*Scaphirhynchus albus*), and western prairie fringed orchid (*Platanthera praeclara*).
- V. **Project Description:** The Project encompasses 14,000 acres of PacifiCorp owned land. The initial Project development consisted of 158 General Electric 1.5 megawatt (MW) wind turbine generators, all with a tower height of 262 foot (80 meter) secured to concrete foundations and a blade diameter of 253 foot (77 meter), with a total output of 237 MW. In addition to the wind turbine generators, other Project facilities include: access roads, crane pads, a laydown area, batch plant, communication/collection systems, substation, operation, and maintenance building, meteorological (MET) towers, and 13 mi (21 km) of 230-kilovolt transmission line connecting the Project from PacifiCorp's Windstar switching substation to the Dave Johnston thermal energy generation facility. Construction of the Project commenced in March 2008 and operations began on January 17, 2009. PacifiCorp repowered 126 of the existing 158 wind turbine generators with new nacelles and rotors in 2019. The remaining 32 turbines will not be repowered. The repowered wind turbine generator will be rated at 1.85 MW, have 299-ft (91-m) rotor diameters, 413-ft (126-m) hub height, and a total height of 413 ft.

The Project and other PacifiCorp wind energy projects in Wyoming resulted in continuing collision mortality of eagles. Consequently on December 19, 2014, PacifiCorp pleaded guilty, in US District Court, to two counts of Unlawful Take of Migratory Birds. Resulting from this were fines, restitution, and community service in form of a probationary period with Mandatory Conditions of Probation. The conditions included the implementation of a Migratory Bird Compliance Plan (MBCP) which was developed with assistance from the U.S. Fish and Wildlife Service (Service). The purpose of the MBCP is to outline a framework for implementation of avoidance and minimization measures to ensure compliance under requirements of Migratory Bird Treaty Act (MBTA) and Bald and Golden

Eagle Protection Act (BGEPA). Pursuant to the MBCP, the Service and Pacific-Corp worked together on additional avoidance and minimization measures and a second phase of standardized post-construction, eagle-mortality monitoring from 2014 and continuing until eagle take permit issuance. The MBCP will remain in place until it's replaced by the Incidental Eagle Take Permit (IETP) aka Programmatic Take Permit. The operator submitted the permit application and Eagle Conservation Plan (ECP) to the Service on October 29, 2018, requesting a 30-year permit.

The need for the federal action is necessitated by the Service Region 6, receiving an application from PacifiCorp for an incidental take permit for the take of bald or golden eagles associated with the existing Project.

VI. **Determination of Effects:**

(A) Description of Effects:

Ute ladies' tresses

No ground disturbing activities are being proposed. The IETP (if issued) will require post-construction surveys as a condition of the authorization. Post-construction surveys would be conducted on foot, utilizing existing roads for access. Typically post-construction surveys are conducted in a square plot measuring 160 meters by 160 meters (based on a recently issued permit) centered around each turbine. Although the specifics of the survey protocol is unknown, established protocols for wind projects in Wyoming usually prescribe straight-line transects across the square plot so that the surveyor can visually search for eagles 20 meters on either side of the straight-line transect.

The Project overlaps the Area of Influence (AOI) defined for this species. The AOI identifies areas where proponents of project action should consider potential effects to the species and designated and proposed critical habitat. The AOI typically encompass areas larger than where the species is expected to occur because of consideration for direct and indirect effects to the species and habitat.

The nearest known population of Ute ladies'-tresses is 12 miles north from the Project. No critical habitat has been designated for Ute-ladies'-tresses throughout its range. However, four wind turbine-related plot survey areas are located in the Ute ladies'-tresses AOI (Figure. 1). Therefore the habitat around these four wind turbines was further evaluated. Based on National Wetland Inventory dataset (accessed 2/27/2020), none of these potential turbine survey areas occur within 160 meters of "freshwater emergent wetland" (wetland) with habitat potentially suitable for Ute ladies'-tresses.

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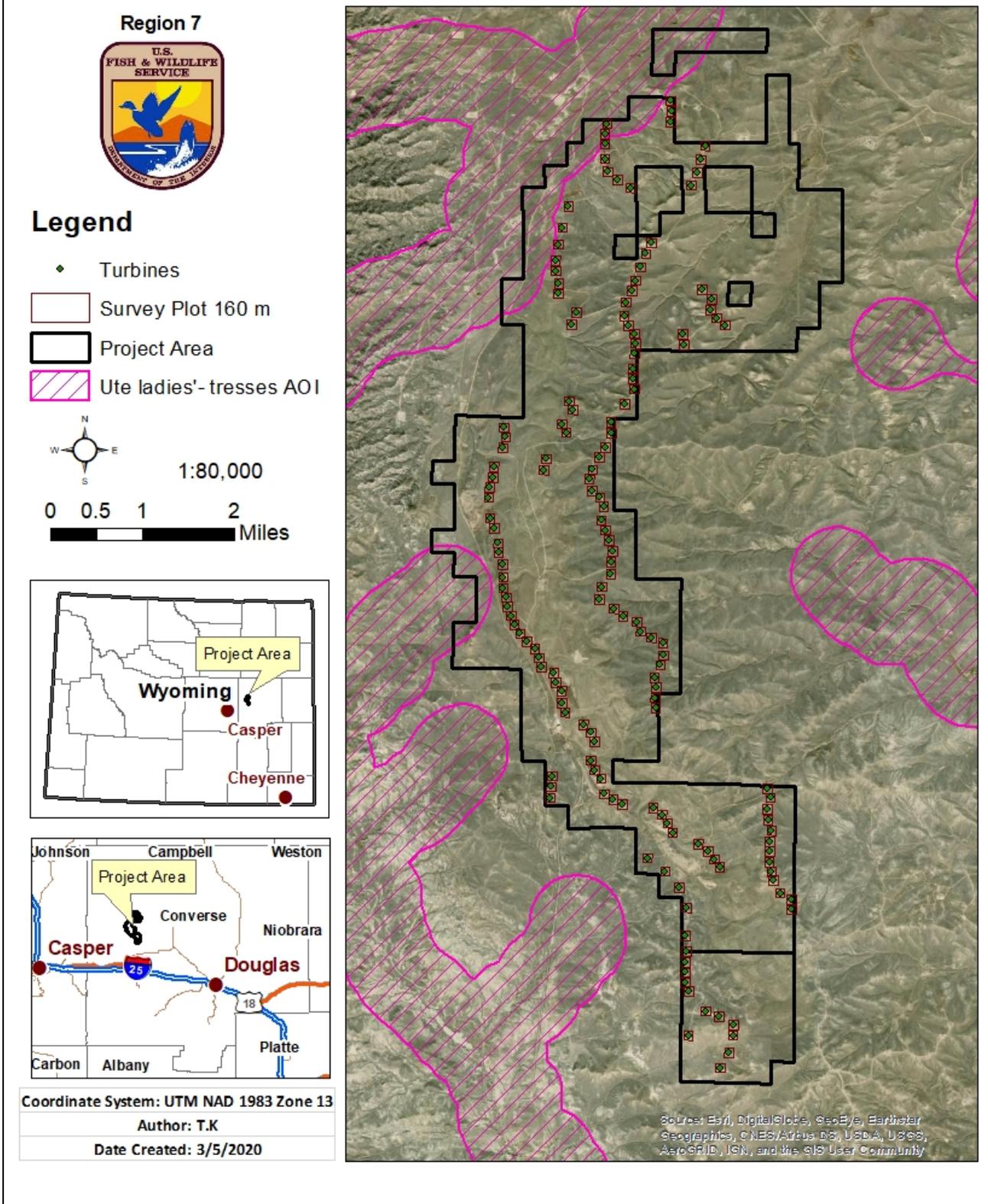


Figure 1. Glenrock-Rolling Hills existing turbines, potential survey plots, and Ute ladies'-tresses Area of Influence

In summary, no ground-disturbing activities are planned as part of the proposed action of issuing an EITP for the Project. Foot surveys to monitor eagle mortality may be required by the EITP but no

suitable Ute Ladies'-tresses habitat occurs in areas that will be accessed for those surveys. Therefore the proposed action of issuing an eagle take permit for the existing Glenrock-Rolling Hills wind project will have no effect on Ute ladies'-tresses.

Least tern, piping plover, whooping crane, pallid sturgeon, and western prairie fringed orchid

There will be no effect to the downstream Platte River species: least tern, piping plover, whooping crane, western prairie fringed orchid, and pallid sturgeon because the proposed action of issuing an eagle take permit for the Project will not result in depletions to the Platte River system.

(B) Determination: Determine the anticipated effects of the proposed project on species and critical habitats listed in item IV. Check all applicable boxes and list the species (or attach a list) associated with each determination.

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.**
Ute ladies' tresses and Platte River species: piping plover, western prairie fringed orchid, least tern, whooping crane, and pallid sturgeon

XX

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 of listed species and/or designated critical habitat. **Concurrence from ESFO required.**

May Affect and Likely to Adversely Affect: This determination is appropriate when the proposed project is likely to adversely impact individuals of listed species and/or designated critical habitat. **Formal consultation with ESFO required.**

May Affect and Likely to Adversely Affect but the proposed action is for the purpose of endangered or threatened species recovery and falls under Region 6's Programmatic Consultation on Service-initiated Recovery Actions: This determination is appropriate when adverse effects are likely but the project is designed to assist with recovery of listed species and/or designated critical habitat. **Concurrence from the ESFO that the project is covered by the programmatic consultation is required.**

May affect but Not Likely to Jeopardize candidate or proposed species/critical habitat: This determination is appropriate when the proposed project may affect, but 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 optional.**

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. **Conferencing with ESFO required.**

Signature _____

Date _____

[Supervisor at originating station]

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. Effects are addressed in the Programmatic Consultation on R6's
Recovery Program – no further consultation needed

D. Conference required
List species or critical habitat unit

Name of Reviewing ES Office Wyoming Ecological Services Field Office

Signature

Date
