U.S. Fish and Wildlife Service

Issuance of an Incidental Eagle Take Permit for Rim Rock Wind Energy Project

Toole and Glacier Counties, Montana

Finding of No Significant Impact

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Table of Contents

Attachments

List of Acronyms

ACHP	Advisory Council on Historic Preservation
APLIC	Avian Power Line Interaction Committee
C.F.R.	Code of Federal Regulation
CRM	Collision Risk Model
ECP	Eagle Conservation Plan
EMU	Eagle Management Unit
ESA	Endangered Species Act
EA	Environmental Assessment
EIS	Environmental Impact Statement
Fed. Reg.	Federal Regulation
IETP	Incidental Eagle Take Permit
LAP	Local Area Population
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
PEIS	Programmatic Environmental Impact Statement
SHPO	State Historic Preservation Office

1. Introduction

This Finding of No Significant Impact (FONSI) addresses the issuance of an Incidental Eagle Take Permit (IETP) pursuant to the Bald and Golden Eagle Protection Act (Eagle Act) and its 2016 implementing regulations (16 U.S.C. §§ 668–668d [1940]; *see also* 50 C.F.R. § 22.80 [2022]) to BHE Rim Rock Wind, LLC (Applicant). The Applicant seeks a permit for non-purposeful take of eagles under the Eagle Act for the operation of the Rim Rock Wind Energy Project (Project), located in Toole and Glacier Counties, Montana. The Project consists of 126 wind turbines and associated infrastructure (substations, access roads, interconnection tie line, etc.) and has been operational since December 2012.

In accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. §§ 4321–4347 [1970]) and its implementing regulations (40 C.F.R. Pt. 1500 [2020]; see also 43 C.F.R. Pt. 46 [2008]), and United States Fish and Wildlife Service (Service) NEPA requirements (516 DM 1-4, 8 [2020]), the Service prepared an Environmental Assessment (EA) analyzing the impacts to the human environment associated with permit issuance (*Environmental Assessment for the Issuance of an Incidental Eagle Take Permit for the Rim Rock Wind Energy Project, Montana*). As required as part of the permit application, the Applicant submitted an Eagle Conservation Plan (ECP) (Attachment 1 of the EA). The EA analyzed two alternatives: not issuing the permit (the no action alternative or alternative 1) or issuing the permit (the proposed action). The EA (Service 2023) is incorporated by reference into this FONSI and provided as Attachment 1. Permit issuance will authorize bald eagle and golden eagle take that is incidental to otherwise lawful operational activities described in the EA and ECP.

The EA and ECP detail the impacts of the incidental take on bald eagles and golden eagles and how these impacts will be avoided, minimized, and mitigated. Incidental Eagle Take Permits may be issued only in compliance with the preservation standard of the Eagle Act. This means that to consider permit issuance, we must determine whether the take is compatible with the preservation of bald and golden eagles, defined as "consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units and the persistence of local populations throughout the geographic range of each species" (16 U.S.C. §§ 668–668d [1940]; see also 50 C.F.R. § 22.80 [2022]). The EA evaluated the proposed action and a no action alternative, based on the ability of the alternatives to meet our purpose and need, and the associated impacts to the human environment.

Upon review of the EA, the Service concludes that a FONSI is appropriate. Following review and analysis, the Service has chosen to issue a permit for activities under our proposed action described in the EA.

2. Background

The EA analyzes the effects of our proposed issuance of a 30-year IETP on bald eagles, golden eagles, and the human environment and evaluates impacts over the 30-year duration of the IETP as related to the Project operation over the 30-year term. The IETP will expire after 30 years. The Applicant could then choose to apply for a new permit.

The Service developed the *Eagle Conservation Plan Guidance Module 1: Land-based Wind Energy, Version 2* (ECP Guidance, Service 2013) to provide recommendations for the development of ECPs in support of issuance of IETPs for wind facilities. The ECP Guidance is intended to assist industry in avoiding and minimizing impacts to eagles that may result from site selection, construction, operation, and maintenance of land-based, wind energy facilities. The ECP Guidance provides recommendations for a staged approach to site evaluation, and development of an ECP with the Service.

The Service received a permit application package from the Applicant for the 189-megawatt (MW) Project, on November 20, 2018. The application package included an ECP. The EA evaluates impacts to the human environment resulting from issuance of an IETP under the 2016 eagle regulations. Pursuant to the "high quality" information standards of the NEPA regulations (40 C.F.R. § 1500.1(b) [2020]), the EA also incorporated by reference the best available science, specifically updated population estimates and other information pertaining to eagles documented in the *Bald and Golden Eagles: Population demographics and estimation of sustainable take in the United States, 2016 update* (Service 2016a) and the *Programmatic Environmental Impact Statement for the Eagle Rule Revision* (PEIS; Service 2016b).

Our Collision Risk Model (CRM) predicts that there could be up to 3.64 bald eagles and up to 4.1 golden eagles taken per year at the Project (see EA Sections 4.1.1-4.1.3).

The Applicant continues to demonstrate a good-faith effort to comply with the Eagle Act while we developed this EA and processed the IETP application.

3. Alternatives Considered

3.1 Introduction

The EA considered alternatives for issuance of a permit to take bald eagles and golden eagles at the Project. The EA analyzes the effects of our proposed issuance of a 30-year IETP on the human environment and evaluates impacts over the 30-year duration of the IETP as related to the Project operation over the 30-year term. The permit expires after 30 years. Afterwards, the Applicant would be required to seek a new permit if the Applicant wishes to avoid the risk of prosecution NEPA for unauthorized eagle take.

The National Environmental Policy Act requires Federal agencies to study, develop, and describe appropriate alternatives to recommended proposed actions with the potential to result in unresolved resource conflicts (42 U.S.C. § 4332(2)(E) [2010]). This is also consistent with CEQ and Department of Interior NEPA implementing regulations (40 C.F.R., Pt. 1500 [2020] and 43 C.F.R. § 46.300 [2008]), and Service requirements (516 DM 1-4, 8 [2020]).

The EA evaluated a no action alternative (alternative 1) and one action alternative (the proposed action). The following is a brief description of the two alternatives considered. For a complete description of the alternatives, as well as alternatives that were considered but not evaluated further, see Chapter 2 of the EA (Attachment 1).

3.2 No Action Alternative

Under the no action alternative, the Service would deny the permit application, and not issue an IETP. Our permit issuance regulations at 50 C.F.R. § 13.21(b) & (c) [1974] set forth a variety of circumstances that disqualify an applicant from obtaining a permit (e.g., a conviction, or entry of a plea of guilty or nolo contendere, for a felony violation of the Lacey Act, the MBTA, or the Eagle Act disqualifies any such person from receiving or exercising the privileges of a permit).

The no action alternative in this context analyzes predictable outcomes of the Service not issuing an IETP. Under the no action alternative, the Project would likely continue to operate without an IETP being issued. Thus, for purposes of analyzing the no action alternative, we assume that the Applicant will continue to implement all measures required by other agencies and jurisdictions to operate the Project, but the conservation measures proposed in the IETP application package (that have not already been implemented by the Applicant) would not be required.

No post-construction eagle mortality monitoring would occur, and no additional data would be available to the Service to contribute to the overall refining efforts of the CRM.

The project proponent may choose to implement some, none, or all of those conservation and adaptive management measures. Under this alternative, we assume that the Applicant will take some reasonable steps to avoid being liable for violating the Eagle Act should take of an eagle occur.

Choosing the no action alternative is a potential outcome of the permit review process and provides a baseline against which to compare the environmental impacts of the proposed action. We can deny an IETP if the permit application fails to meet one or more of several issuance criteria under 50 C.F.R. § 22.80 [2022] or because the risk to eagles is so low that an IETP is unnecessary.

3.3 Proposed Action

Under the proposed action, we would issue a 30-year IETP to take up to 3.64 bald eagles and up to 4.1 golden eagles annually (for a total authorized take of up to 110 bald eagles and up to 123 golden eagles over the life of the 30-year permit) with associated conditions, as allowed by regulation for the operation of the Project. The Applicant will implement all measures required by other agencies and jurisdictions to conduct the activity at this site including Applicant-committed measures, the conservation commitments described in the Applicant's ECP and Avoidance and Minimization, Compensatory Mitigation, Post Construction Monitoring, and Adaptive Management. We used our CRM to estimate the number of annual bald eagle and golden eagle mortalities resulting from the Project operation and maintenance Chapter 4 of the EA (Attachment 1).

The proposed action alternative allows the Service to monitor and manage take of golden eagles throughout the life of the Project without significantly affecting regional or local eagle populations. It is preferable to the other alternatives for the following reasons:

- With the issuance of the permit under the proposed action, the power pole retrofits provide a benefit by reducing the electrocution risk to eagles and other migratory birds.
- The avoidance and minimization measures associated with the proposed action, along with the additional adaptive management measures, are designed to further ensure that the permit is compatible with the preservation of golden eagles.
- Under the No-Action Alternative, conservation measures to avoid or minimize risk to eagles would not be required. Therefore, the risk to eagles is expected to be higher under this alternative as compared to the proposed action. Under this alternative, direct impacts on the golden eagle population over the 30-year life of the Project are anticipated to be the loss of up to 123 eagles. No adaptive management measures would be triggered should take exceed predictions and none of the impacts to golden eagles would be offset by compensatory mitigation.

The 30-year IETP would include specific permit conditions, including implementation of monitoring, reporting, and adaptive management, as discussed in the EA (Attachment 1, Chapter 2) and in the ECP.

The IETP is issued for 30 years and would apply to the Project's operation of all 126 turbines and ongoing operation of site infrastructure, effective immediately upon issuance of the permit. At the end of the 30-year permit term, the Applicant may choose to apply for a new permit under the regulations in place at that time.

As part of the proposed action alternative the Applicant will implement compensatory mitigation to offset take of golden eagles. The take limit of golden eagles is zero for all Eagle Management Units (EMUs) (Service 2016a, Service 2016b); therefore, the Applicant is required to provide compensatory mitigation targeted to offset the predicted take of golden eagles authorized by the 30-year permit (*Id*.; *see also* Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests, 81 Fed. Reg. 91504 [Dec. 16, 2016]). This EA tiers to the 2016 PEIS (40 C.F.R. § 1508.28 [2020]). As explained in the EA, the Project is in the Pacific Flyway EMU. The estimated take is analyzed at the Local Area Population (LAP) scale, corresponding to a 109-mile radius around the Project and is based on the median natal dispersal distance of golden eagles (Service 2016a). Therefore, to offset the authorized take of golden eagles the Service has determined that the Applicant is required to retrofit or reframe high-risk power poles, or other Service approved mitigation.

The number of retrofits was derived using our Resource Equivalency Analysis (Service 2013), based on the estimated annual golden eagle mortalities, above the baseline take. Briefly, and as explained more fully in the EA, retrofitting and re-framing power poles (e.g., installing eagle safe perches, installing perching deterrents, insulating electrified phases) reduces eagle mortality by preventing electrocution.

The Applicant has committed and will be required to fully offset the authorized take of golden eagles by implementing compensatory mitigation as part of the conditions of the IETP. Compensatory mitigation for this Project will consist of retrofitting high-risk power poles proportional to the predicted and adjusted golden eagle take estimate calculated by the Service. Together, these conservation and mitigation measures aim to ensure there will be no significant

impacts to golden eagle populations. Compensatory mitigation must be additional or additive and is calculated using the Service's Resource Equivalency Analysis model for eagles, as outlined in the Eagle Conservation Plan Guidance Module 1-Land-based Wind Energy Version 2 (Service 2013).

Compensatory mitigation is not required for bald eagle mortality at the Project; however, the compensatory mitigation implemented to offset take of golden eagles will likely benefit bald eagles.

3.4 Comparison of Effects of Alternatives

The following table compares the effects of the no action and the proposed action.

Table 1. Comparison of the Effects of the No Action and the Proposed Action Alternatives.

	Proposed Action – Issue Permit	**Alternative 1 – No Action**
Eagle Take Levels	Up to 110 bald eagles and up to 123 golden eagles over 30 years. In practice we anticipate lower take levels due to avoidance and minimization actions which will be required under the permits.	Up to 110 bald eagles and up to 123 golden eagles over 30 years.
Unmitigated Eagle Take	Zero	Up to 110 bald eagles and up to 123 golden eagles over 30 years.
Compensatory Mitigation	The Applicant has committed, and will be required, to retrofit high-risk power poles, or another form of compensatory mitigation, proportional to the predicted and adjusted eagle take estimate as compensatory mitigation, for the loss of golden eagles as a condition of approval related to the IETP.	None
Avoidance and Minimization	Project is operational and will continue to operate.	Project is operational and will continue to operate.
Adaptive Management	The plan is to avoid and minimize impacts to avian resources.	The plan is to avoid and minimize impacts to avian resources.

Data Collected by Service	Annual monitoring report of fatalities; reporting of injured and dead eagles; information on the effects of specific, applied, and conservation measures.	Reporting of injured and dead eagles.
Company Liability for Eagle Take	No (if in compliance with permit conditions).	Yes

3.5 Evaluation of Alternatives

The EA evaluated potential impacts that could result from the issuance of an IETP. The EA was developed to assist the Service in evaluating effects on the human environment and in assessing the significance of the impacts that could result from the alternatives. "Significance" under NEPA regulations requires the consideration of context and intensity (40 C.F.R. § 1508.27 [2020]).

3.6 Selected Alternative

The Selected Alternative for this action is the proposed action (issuance of an IETP), as described below and summarized in Table 1 above.

4. Effects of Implementation

As described in the EA, implementing the Selected Alternative would have no significant impacts on any of the environmental resources identified in the EA. Our Selected Alternative is consistent with our purpose and need as stated in the EA. A brief summary of the impact analysis and conclusions in the EA follows.

4.1 Eagles

In determining the significance of effects of each alternative on bald eagles and golden eagles, we screened both alternatives against the Eagle Act's Permit Issuance Criteria under 50 C.F.R. § 22.80 [2022] using quantitative tools available in our ECP Guidance (Service 2013). We also used updated population estimates and other information pertaining to eagles documented in the *Bald and Golden Eagles: Population demographics and estimation of sustainable take in the United States, 2016 update* (Service 2016a) and the *Programmatic Environmental Impact Statement for the Eagle Rule Revision* (Service 2016b).

Under the 2016 regulations, the Service has interpreted the conservation standard of the Eagle Act to require maintenance of stable or increasing breeding populations of eagles (50 C.F.R., Pt. 22 [2022]; Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests, 81 Fed. Reg. 91494 [Dec. 16, 2016]). The Service independently evaluated the potential impacts from Project operations along with the implications for population level and cumulative effects. We developed conservative risk estimates for the Project and determined our cumulative effects analysis to be protective of both eagle species.

4.2 Risk Estimate

In the ECP Guidance (Service 2013), we provided a mathematical model that estimates fatality risk at wind project sites. The model relies on a logical assumption that there is a positive relationship between the number of minutes eagles are present in the air space near turbines, the number of turbines, and the risk of collision by eagles.

To estimate annual fatalities for this Project, we did not have sufficient pre-construction eagle-use data to update exposure for the CRM; therefore, we used the national priors for the eagle exposure parameter.

The mortality monitoring requirements under the Selected Alternative will allow us to evaluate the Project's risks and provide statistically meaningful results both during the permit term and in the future, should the Applicant seek a new permit.

4.3 Cumulative Effects

Take of eagles has the potential to affect the larger eagle population. Accordingly, the 2016 PEIS (USFWS 2016), incorporated herein by reference, analyzed the cumulative effects of permitting take of golden eagles in combination with ongoing unauthorized sources of human-caused eagle mortality and other present or foreseeable future actions affecting golden eagle populations.

To evaluate cumulative impacts for the LAP, we followed the guidance provided in Appendix F of the ECP Guidance (Service 2013). Utilizing this process, we estimated annual bald eagle fatality rates within the LAP (an 86-mile radius around the Project for bald eagles and a 109-mile radius for golden eagles). This analysis included available data from the EMU in which the Project occurs (Pacific Flyway EMU). We developed this conservative estimate of population-level effects to be protective of the species.

Bald Eagles

The predicted take of bald eagles at the Project is up to 3.64 per year. The estimated median population size of bald eagles in the Pacific Flyway EMU is 42,068 (Service 2016b). Based on the Service's process to calculate the LAP, the population size in the LAP is estimated to be 278 eagles and the annual 1% and 5% benchmarks for this local area population are about three and fourteen bald eagles, respectively. There is one project currently permitted for short-term eagle take that overlaps the Projects' LAP boundary for bald eagles. Taken together, the Projects' take with overlapping take of the other projects could result in a total annual take of 3.84 bald eagles (or 1.38% of the LAP).

The impacts to bald eagle populations at both the LAP and EMU scales are therefore not significant. It is reasonable to assume that bald eagles in the Projects' vicinity are increasing and the conservative take estimate at the Project would not contribute to declines in the overall bald eagle population in the EMU.

Lastly, the IETP-Eagle Act regulations require the Service to consider whether unpermitted eagle mortality may be incompatible with the persistence of the Project LAP. The unpermitted take threshold within a LAP is 10%. We documented that bald eagles are not experiencing atypically high levels of unpermitted mortality in this LAP. Based on the Service's eagle mortality database (which tracks sources of unpermitted take), there were 28 reported bald eagle mortalities within the LAP between 2002 and 2023, for an average of 1.27 per year. These mortalities are all considered to be unpermitted take and are largely due anthropogenic causes (e.g., electrocution, shooting, poisoning, collision with wind turbines, etc.) and less due to natural causes or undetermined. On an annual basis, 1.27 unpermitted bald eagle takes equals about 0.46% of the total estimated bald eagle population in the LAP associated with the Project. This amount of unpermitted take is below the 10% threshold level for unpermitted take within the LAP.

The Service will continue to encourage measures to reduce mortality from the sources identified in the EA and PEIS, including those identified for the Project. The adaptive management strategy outlined in the EA and the Applicant's ECP are intended to minimize ongoing take at the facility.

Golden Eagles

The predicted take of golden eagles at the Project is 4.1 per year. The estimated median population size of golden eagles in the Pacific Flyway EMU is 14,437 (Service 2016b). Based on the Service's process to calculate the LAP, the population size in the LAP is estimated to be approximately 325 eagles and the 1% and 5% benchmarks for this LAP are about four and seventeen, respectively (Attachment 1, Section 4.2.2). As discussed in the EA (Attachment 1), the Service's objective is to manage golden eagles by authorizing annual take at a level that is less than 5% of the LAP.

No currently permitted long-term project LAP boundaries overlap this Project's LAP boundary for golden eagles, therefore, the estimated annual take related to this Project could result in a total of 4.1 golden eagles (or 1.26% of the LAP). Hence, this level of cumulative take would not exceed the 5% benchmarks for the LAP. The Service has established take limits for golden eagle populations by EMU as described in the final EA for the 2009 Eagle Act take regulations and revised in the 2016 PEIS. For the Pacific Flyway EMU, the annual take limit is set at zero for golden eagles (Service 2016b); therefore, any permitted take must be offset by compensatory mitigation. The predicted take of golden eagles at the Project is 4.1 per year (for a total of up to 123 over the 30-year permit). Therefore, the Applicant has committed and will be required to fully offset the authorized take of golden eagles by implementing compensatory mitigation as part of the conditions of the IETP.

Our LAP analysis also included an assessment of unpermitted golden eagle take (unauthorized golden eagle mortality) that we are aware of within the LAP for the years 2002-2023 (the time interval selected for the LAP analysis). In making eagle permitting decisions, the Service is required to assess whether annual unauthorized eagle mortality would exceed 10% of the LAP associated with the Project or action (Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests, 81 Fed. Reg. 91499 [Dec. 16, 2016]).

Our analysis documents that there were 43 reported golden eagle mortalities within the LAP between the discovery period of 2002 and 2023, for an average of 1.95 per year. On an annual basis, 1.95 unpermitted golden eagle takes equals about 0.60% of the total golden eagle population in the LAP associated with the Project. This amount of unpermitted take is well below the 10% threshold level for unpermitted take within the LAP.

The Service will continue to encourage measures to reduce mortality from the sources identified in the EA and PEIS, including those identified for the Project. The adaptive management strategy outlined in the EA and the Applicant's ECP are intended to minimize ongoing take at the facility.

4.4 Conclusion

The take that would be authorized by this permit does exceed 5% of the LAP for bald eagles (see Attachment 1, Section 4.2.1) and does not exceed 5% of the LAP for golden eagles (see Attachment 1, Section 4.2.2). The authorized take for bald eagles does not exceed the EMU level for bald eagles. As described above, the allowable EMU take level for golden eagles is zero; therefore, issuance of this permit would exceed the EMU take level. Accordingly, compensatory mitigation is required for the anticipated take of golden eagles by the Project. This take would be offset by commitments from the Applicant to retrofit high-risk power poles proportional to the predicted and adjusted eagle take estimate; therefore, the proposed action will not significantly impact golden eagle populations. See the "Mitigation and Monitoring" section below for more discussion. We have determined there would be no significant adverse cumulative effects to bald eagle or golden eagle populations by issuing an IETP to the Applicant.

4.5 Native American Cultural Values

The National Historic Preservation Act (NHPA) is the principal federal law guiding federal actions with respect to the treatment of cultural, archaeological, and historic resources. Section 106 (54 U.S.C. § 306108) of the NHPA requires federal agencies, prior to taking action to implement an undertaking, to consider the effects of their undertaking on historic properties and to give the Advisory Council on Historic Preservation (ACHP) and the State Historic Preservation Office (SHPO) a reasonable opportunity to comment regarding the undertaking. Historic properties are "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register…" of Historic Places [NRHP] (54 U.S.C. § 300308). The criteria used to evaluate the NRHP eligibility of properties affected by federal agency undertakings are contained in 36 C.F.R. § 60.4 [1981].

We contacted 19 native sovereign nation tribal leaders through formal letters, and other tribes potentially affected by this Project via email, to offer the opportunity for formal consultation concerning this potential federal action. The letters informed the tribal leaders and other potentially affected tribes of the receipt of the IETP application and the availability of a draft EA for the purpose of a 30-day public comment period. To date, we have not received any comments or requests for consultation from Tribes.

To address the effects of eagle take on cultural practices, the Service assessed whether the proposed action or no action alternative would impact the religious and cultural significance of

eagles to Native American communities. Cumulative effects of the proposed action for the non-purposeful take of bald and golden eagles will not result in regional population declines as the take of bald and golden eagles at the Project is expected to be below the sustainable take threshold for the EMU. In addition, the Service will review take thresholds in the EMUs on a regular basis relative to bald and golden eagle population and demographic parameters and will modify or adjust the permitting regulations accordingly. If there is evidence that demand for permitted eagle take will exceed take thresholds for the EMUs, the regional structured-allocation process will ensure that authorized take necessary to meet the religious use for traditional ceremonies of a Native American Tribe will not be precluded due to other take being authorized for another purpose (Service 2009a). The IETP will include permit conditions to ensure all recoverable eagle remains, parts, and feathers are sent to the National Eagle Repository and could then be used for Native American cultural and religious purposes. As described above, we invited tribes to engage in consultation and have determined that the avoidance and minimization measures implemented at the Project will also minimize effects to Traditional Cultural Properties (TCP). In depth discussion related to the environmental consequences of issuing an IETP on TCPs can be found in the 2016 PEIS section 3.7.1.3 Federal and Tribal Statutes and is incorporated here by reference.

5. Public Comments

The Service published the draft EA on the Service's Drupal electronic library website (https://www.fws.gov/media/rim-rock-wind-energy-project) on February 8, 2023, opening a 30-day public comment period which ended on March 10, 2023. We did not receive any comments and recommendations during the public review period. It has been determined that there is no new significant information and the Service has prepared this FONSI in accordance with NEPA regulations (40 C.F.R. § 1508.13 [2020]).

6. Eagle Take Permit Issuance Criteria Required Determinations

In consideration of this 30-year permit, we evaluated the Selected Alternative's ability to meet the required determinations of the permit issuance criteria identified in the Eagle Act's 2016 permitting regulations (50 C.F.R., Pt. 22 [2022]; Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests, 81 Fed. Reg. 91494 [Dec. 16, 2016]).

Applicants whose otherwise lawful activities may result in take of eagles, can apply for an IETP so that their project may proceed without potential violations of the Eagle Act. The Service may issue an IETP for eagle take that is associated with, but not the purpose of, an activity. Such permits can be issued by the Service when the take that is authorized is compatible with the Eagle Act preservation standard; it is necessary to protect an interest in a particular locality; it is associated with, but not the purpose of, the activity; and it cannot be practicably avoided (50 C.F.R., Pt. 22 [2022]; Eagle Permits, Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests, 81 Fed. Reg. 91551 [Dec. 16, 2016]). The preservation standard under the Eagle Act means to be consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units and the persistence of local populations throughout the geographic range of each species (50 C.F.R., Pt. 22 [2022]).

The Eagle Act authorizes the Service to issue eagle take permits only when the take is compatible with the preservation of each eagle species, defined (50 C.F.R., Pt. 22.80(a); Eagle Permits, Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests, 81 Fed. Reg. 91551 [Dec. 16, 2016]) as "consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units and the persistence of local populations throughout the geographic range of each species."

We evaluated the ability of the Final EA's Selected Alternative (Service 2018) to meet the issuance criteria's required determinations identified in the Eagle Act's 2016 permitting regulations (*see* 50 C.F.R. § 22.80(f) [2022]). Under the regulations, the Service may not issue a permit unless the following issuance criteria are met:

1) *The direct and indirect effects of the take and required mitigation, together with the cumulative effects of other permitted take and additional factors affecting eagle populations within the eagle management unit and local area population, are compatible with the preservation of bald eagles and golden eagles.*

Bald Eagles

The direct and indirect effects of the estimated take of bald eagles is consistent with the Service's management objectives, as related to eagles, at the LAP and EMU levels. Based on the Service's process to calculate the LAP and currently available data for this process, the estimated annual take related to this Project combined with the overlapping take of one other project could result in a total of 3.84 bald eagles (or 1.38% of the LAP). The take at the LAP level of 1.38% does not exceed the 5% benchmark for the LAP associated with the Project, and this level of bald eagle take from the local area is consistent with the management objective established in the PEIS and codified in regulation. The impacts to bald eagle populations at both the LAP and EMU scales are therefore not significant. It is reasonable to assume that bald eagle numbers in the project vicinity are increasing and the conservative take estimate at the Project would not contribute to declines in the overall bald eagle population in the Pacific Flyway EMU.

The Service finds that the direct and indirect effects of the take and required mitigation, together with the cumulative effects of other permitted take and additional factors affecting eagle populations within the EMU and LAP, are compatible with the preservation of bald eagles.

Golden Eagles

The direct and indirect effects of the estimated take of golden eagles is consistent with the Service's management objectives, as related to eagles, at the LAP and EMU levels. Based on the Service's process to calculate the LAP and currently available data for this process, the estimated annual take related to this Project could result in a total of 4.1 golden eagles (or 1.26% of the LAP), which is well below the 5% LAP benchmarks and therefore is compatible with the preservation of golden eagles. For the Pacific Flyway EMU, the annual take limit is set at zero for golden eagles (Service 2016b), therefore any permitted take must be offset by compensatory mitigation. The predicted take of golden eagles at the Project is 4.1 per year (for a total of up to 123 over the 30-year permit). Therefore, as described in the "Offsetting Compensatory

Mitigation" section above, the Service has determined that the Applicant will retrofit high-risk power poles proportional to the predicted and adjusted eagle take estimate, as compensatory mitigation for the loss of golden eagles as a condition of approval related to the IETP. The Service finds that the direct and indirect effects of the take and required mitigation, together with the cumulative effects of other permitted take and additional factors affecting eagle populations within the EMU and LAP, are compatible with the preservation of golden eagles.

2) *The taking is necessary to protect an interest in a particular locality.*

The Project consists of 126 turbines that generates 189 MW of electricity with associated infrastructure and has been operating since December 2012. The Service has determined that the taking is necessary to protect an interest in a particular locality.

3) *The taking is associated with, but not the purpose of, the activity.*

The Project currently collects and delivers renewable energy. The Service has determined that unintentional take of bald eagles and golden eagles is associated with, but not the purpose of, the Project.

4) *The Applicant has applied all appropriate and practicable avoidance and minimization measures to reduce impacts to eagles.*

Accordingly, the ECP and the Selected Alternative includes an adaptive management framework to address potential long-term effects. The Service has determined that the take is unavoidable because the project has already been constructed and that the Applicant has applied all appropriate and practicable avoidance and minimization measures to reduce impacts to eagles. Despite the implementation of the avoidance and minimization measures, some incidental take of migratory birds and eagles may still occur. Direct impacts of the Project on the eagle populations are anticipated to be up to 110 bald eagles and 123 golden eagles (3.64 bald eagles and up to 4.1 golden eagles annually over 30 years).

5) *The Applicant has applied all appropriate and practicable compensatory mitigation measures, when required, pursuant to paragraph (c) of this section, to compensate for remaining unavoidable impacts after all appropriate and practicable avoidance and minimization measures have been applied.*

Bald eagles

Per our eagle take permit regulations (50 C.F.R., Pt. 22), the Service could only require compensatory mitigation when the EMU take limit is exceeded, or if necessary to protect the LAP, neither of which is the case for the Project (i.e., this LAP can withstand this level of potential take). Hence, in this case the Service will not require compensatory mitigation for bald eagle take as related to this Project. The Applicant has applied, or committed to applying, all appropriate and practicable compensatory mitigation measures, when required to compensate for remaining unavoidable impacts after all appropriate and practicable avoidance and minimization measures have been applied.

Golden eagles

The proposed action incorporates measures to minimize and avoid to the maximum degree practicable, as required by regulation, the take of golden eagles. To ensure that regional eagle populations are maintained consistent with the preservation standard, regulations require that any golden eagle take that cannot practicably be avoided and is above EMU take limits must be offset by compensatory mitigation at a 1 to 1.2 ratio. As golden eagle take limits for all EMUs were determined to be zero (Service 2016a), compensatory mitigation is necessary to offset any authorized take of golden eagles. The Applicant will retrofit high-risk power poles proportional to the predicted and adjusted eagle take estimate at a 1 to 1.2 ratio as compensatory mitigation, for the loss of golden eagles as a condition of approval related to the IETP (Attachment 1). The Resource Equivalency Analysis (REA) model is in discussed further in the EA (Attachment 1, Section 2.1).

Compensatory mitigation will be completed for the 30-year permit period by retrofitting (e.g., installing eagle-safe perches, installing perching deterrents, insulating electrified phases) high-risk power poles to reduce eagle mortality. The number of retrofits will be derived using our Resource Equivalency Analysis (Service 2013), based on the estimated annual golden eagle mortalities.

6) *Issuance of the permit will not preclude issuance of another permit necessary to protect an interest of higher priority according to the following prioritization order:*

   (i) Safety emergencies;

   (ii) Increased need for traditionally practiced Native American tribal religious use that requires taking eagles from the wild;

   (iii) Non-emergency activities necessary to ensure public health and safety; and

   (iv) Other interests.

Issuance of the permit will not preclude issuance of another permit necessary to protect an interest of higher priority.

7) *Issuance of the permit will not interfere with an ongoing civil or criminal action concerning unpermitted past eagle take at the Project.*

There are no ongoing civil or criminal actions concerning unpermitted past eagle take at the Project.

Conclusion

The Service has determined that issuing this permit is compatible with the preservation of the bald eagle and golden eagle and consistent with the goals of maintaining stable or increasing

breeding populations in all eagle management units and the persistence of local populations throughout the geographic range of each species (50 C.F.R., Pt. 22).

Significance Criteria Under NEPA

The Selected Alternative will not have a significant effect on the human environment. This conclusion is based on the following analysis of the significance criteria as defined in 40 C.F.R. § 1508.27 [2020] and as summarized in the EA.

Context

Significance requires consideration of both context and intensity 40 C.F.R. § 1508.27 [2020]. The term "context" means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

- The National Environmental Policy Act requires the consideration of the significance of an action in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend on the effects in the locality rather than in the nation as a whole. Both short- and long-term effects are relevant (40 C.F.R. § 1508.27(a) [2020]). For purposes of analyzing the Selected Alternative, the Service is required to consider effects of take permits on eagle populations at three scales: (1) the EMU, (2) local area, and (3) project area (50 C.F.R. § 22.80(f) [2022]). This is appropriate because the biologically-based bald eagle and golden eagle take thresholds are based on regional populations (Service 2009, 2016a, and 2016b). The EMU and LAP scales consideration is as part of the cumulative effects analysis and is discussed in more detail in Section IV above and in the EA (Attachment 1, Chapter 4). The context of the Selected Alternative points to no significant environmental impacts, considering the following (as discussed in Attachment 1, EA): The Project occurs within the Pacific Flyway EMU, and our assessment is that bald eagle take authorized by the Service within this EMU is well below the annual take limit for this EMU. Since this authorized take is within the take limit for this EMU, no compensatory mitigation is needed for the potential take of bald eagles, to meet the Eagle Act preservation standard. The Applicant will be required and has committed to conduct compensatory mitigation, to offset the potential take of golden eagles, in the form of retrofitting high-risk power poles in this EMU.

  At the LAP level, the Service-authorized take, added to projected take of the Project, is 1.38% for bald eagles and is below the 5% benchmark for this LAP. The Service's determination is that a take rate in this LAP of up to 1.38% is consistent with the management objective of bald eagle populations established in the PEIS and codified in regulation. The impacts to bald eagle populations at both the LAP and EMU scales are therefore not significant.

We also documented, through an assessment of known unpermitted take, that bald eagles are not experiencing atypically high levels of unpermitted mortality in this LAP. Based on the Service's eagle mortality database (which tracks sources of unpermitted take), there were 28 reported bald eagle mortalities within the LAP between 2002 and 2023, for an average of 1.27 per year. These mortalities are all considered to be unpermitted take and are largely due to anthropogenic causes (e.g., electrocution, shooting, poisoning, collision with wind turbines, etc.) and less due to natural causes or undetermined. On an annual basis, 1.27 unpermitted bald eagle takes equals about 0.46% of the total estimated bald eagle population in the LAP associated with the Project. This amount of unpermitted take is below the 10% threshold level for unpermitted take within the LAP. Therefore, there are no significant adverse effects on bald eagles contributed by the Project under the Selected Alternative.

- The predicted take of golden eagles at the Project is 4.1 per year. The estimated median population size of golden eagles in the Pacific Flyway EMU is 14,437 (Service 2016b). Based on the Service's process to calculate the LAP, the population size in the LAP is estimated to be 325 eagles and the 1% and 5% benchmarks for this local area population are about four and seventeen, respectively (Attachment 1, Chapter 4). As discussed in the EA (Attachment 1), the Service's objective is to manage eagles by authorizing take at a level that is less than 5% of the LAP. The total current permitted take existing within the Project's LAP is 4.1 golden eagles (or 1.26% of the LAP), which is well below the 5% LAP benchmarks. Hence, this level of cumulative take would not exceed the 5% benchmarks for the LAP. Our LAP analysis also included an assessment of unpermitted golden eagle take (unauthorized golden eagle mortality) that we are aware of within the LAP for the years 2002 and 2023 (the time interval selected for the LAP analysis). In making eagle permitting decisions, the Service is required to assess whether annual unauthorized eagle mortality would exceed 10% of the LAP associated with the Project or action. Our analysis documents that there were 43 reported golden eagle mortalities within the LAP between 2002 and 2023, for an average of 1.95 per year. On an annual basis, 1.95 unpermitted golden eagle takes equals about 0.60% of the total golden eagle population in the LAP associated with the Project. This amount of unpermitted take is well below the 10% threshold level for unpermitted take within the LAP. As described above, the EMU take level for golden eagles is zero, therefore issuance of this permit would exceed the EMU take level. Accordingly, compensatory mitigation is required for the anticipated take of golden eagles by the Project. This take would be offset by commitments from the Applicant to retrofit or reframe high-risk power poles or implement other Service approved compensatory mitigation measures proportional to the predicted and adjusted golden eagle take estimate. Therefore, there are no significant adverse effects on golden eagles contributed by the Project under the Selected Alternative.

- The Applicant may reduce the actual amount of bald eagle and golden eagle take (compared with our take estimates for the Project) through the implementation of adaptive management. An Adaptive Management Plan consists of monitoring for impacts and avoiding, minimizing, and mitigating those impacts to eagles and other avian species

based on the Project specifics and data. The stepwise process identified in the ECP will be used to guide the implementation of additional conservation measures as needed and applies before actual take exceeds the permitted take levels. This will ensure that the impacts of issuing an IETP to the Project on the local and regional bald eagle and golden eagle populations will not be significant.

- Issuance of an IETP to the Project would have no significant adverse effects on environmental resources or values at the local or regional scale.

Intensity

Significance requires consideration of both context and intensity 40 C.F.R. § 1508.27 [2020]. The term "intensity" refers to the severity of a proposed action's impact on the environment. In determining the intensity of an impact, 40 C.F.R. § 1508.27(b) [2020] directs Federal agencies to consider ten specific factors, each of which is discussed below in relation to the Selected Alternative for the Project.

1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect would be beneficial.

While consideration of the intensity of project impacts must include analysis of both beneficial and adverse effects, only a significant effect triggers the need to prepare an Environmental Impact Statement (EIS). The potential beneficial effects and adverse impacts of the Selected Alternative are discussed briefly below.

Beneficial Effects. The Selected Alternative includes implementation of the ECP and adaptive management, which includes mortality monitoring that will benefit the Service's understanding of mortality of bald eagles and golden eagles at the Project. Our analysis is in comparison to the no action alternative under which the Project continues to operate without any IETP requirements and only limited conservation commitments. Issuance of this permit will allow the Project to operate in compliance with the Eagle Act should eagle take occur, while also providing the Service with valuable data from monitoring requirements.

Adverse Effects. As described in the EA, the Applicant has worked with the Service in development of the ECP to ensure that it contains commitments to avoid and minimize adverse effects on eagles. The Selected Alternative incorporates these measures. Even so, birds, including eagles, can be injured and killed by collision with wind turbines. The Project's ECP describes commitments to avoid and minimize impacts to eagles. Eagle mortality will be monitored and an adaptive management plan will be implemented to address impacts as operational data are gathered.

The analyses in the EA and implementation of the measures identified in the Selected Alternative (including those in the ECP) support the conclusion that the effects are not significant.

2) The degree to which the proposed action affects public health or safety.

As discussed in Chapter 1 of the EA (Attachment 1), the proposed action is issuance of an IETP for non-purposeful take of eagles at the Project. The Service has determined that this action will have no effect on public health or safety.

3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.

The Service only evaluated whether to issue an IETP to the Applicant, thus, only potential impacts to eagles and effects of eagle take on cultural practices were considered in the EA analyses. As the Service is only evaluating whether to issue an IETP for the existing Project's operational activities, the Service has concluded that numerous resources would not be impacted by the proposed action, including; air quality, climate change, environmental justice, land use, fisheries, geology and soils, human health and safety, noise, social and economic values, surface waterbodies and floodplains, vegetation, visual resources, wetlands, migratory birds, bats, and other wildlife. Thus, these resources were not evaluated in the EA. The Service finds that issuance of an IETP to the Applicant would have no further impact on these resources.

4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

No effects of the Selected Alternative were identified as being highly controversial. As a factor for determining within the meaning of 40 C.F.R. § 1508.27(b)(4) [2020] whether to prepare a detailed EIS, controversy is not equated with the existence of opposition to a use. The NEPA implementation regulations (43 C.F.R. § 46.30) defines controversial as "circumstances where a substantial dispute exists as to the environmental consequences of the proposed action and does not refer to the existence of opposition to a proposed action, the effect of which is relatively undisputed." This Project is likely to take eagles, and there is no dispute about that consequence. The Service did not receive any comments during the comments period. It has been determined that there is no new significant information. The Service has determined that the Selected Alternative will not have effects on the quality of the human environment that are likely to be highly controversial.

5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The ECP prepared for the Project and the Service's CRM to estimate eagle take were developed to address any uncertainty regarding impacts. The Selected Alternative requires a rigorous mortality monitoring design to reduce uncertainty regarding impacts to eagles. As part of the permit conditions, mortality monitoring will continue throughout the permit term at a number of turbines and frequency of occurrence as agreed to by the Applicant and the Service.

The adaptive management process will further reduce and monitor potential impacts to eagles from operation of the Project. Issuance of the permit and the implementation of the ECP is

expected to also reduce impacts to avian and bat populations because conservation measures designed to benefit eagles will also benefit other species that are impacted by wind turbines.

Additionally, we did not identify predicted effects to any other environmental resources or values from operation and maintenance of the Project that are highly uncertain or involve unique or unknown risks.

As a result, the Service has determined that there are no predicted effects of the Selected Alternative on the human environment that are considered to be highly uncertain or involve unique or unknown risks.

6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

Issuance of an IETP to the Project does not set precedent for, or automatically apply to other IETP applications the Service is reviewing or could review in the future. Each permit request will be evaluated on a case-by-case basis. Therefore, the Selected Alternative does not establish precedents for future actions or represent a decision in principle about a future action. Moreover, this Project will not limit the Service's discretion to impose additional conditions on processing future IETP applications under the Eagle Act's permitting regulations.

7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

We evaluated cumulative effects on eagles as required by NEPA (40 C.F.R. § 1508.8 [2020]) and the Eagle Act's permitting regulations. Under 50 C.F.R. 22.80(f)(1) [2022], when reviewing a permit application, the Service is required to consider effects of take permits on eagle populations at three scales: (1) the EMU, (2) local area, and (3) project area. Our evaluation also considers cumulative effects.

We incorporated data on mortality at wind farms and electric utilities, and additional information on population-limiting effects in our eagle cumulative impact assessment. We also discussed reasonably foreseeable future (Attachment 1, Section 4.2.4).

Bald Eagles

The LAP of bald eagles for the Project is approximately 278 eagles and the annual 1% and 5% benchmarks for this local area population are about three and fourteen bald eagles, respectively. One currently permitted wind energy project LAP boundary overlap this Project's LAP boundary for bald eagles. Therefore, this Project could result in a total annual take of 3.84 bald eagles (or 1.38% of the LAP).

The Service has established take limits for bald eagle populations by EMU in the Final Environmental Assessment (FEA) for the 2009 Eagle Act take regulations and these were revised in the PEIS. This Project is within the Pacific Flyway, North EMU, which has an annual take threshold of 798 bald eagles per year (Service 2016b). The predicted annual take of bald

eagles at the Project is up to 3.64 bald eagle per year. Therefore, the annual population effects in the Pacific Flyway EMU would be well below the corresponding take threshold. Therefore, there are no significant adverse cumulative effects contributed by the Project under the Selected Alternative.

Golden Eagles

The LAP of golden eagles for the Project is approximately 325 eagles and the 1% and 5% benchmarks for this local area population are about four and seventeen, respectively. No currently permitted wind energy projects LAP boundaries overlap this Project's LAP boundary for golden eagles. Therefore, this Project could result in a total annual take of 4.1 golden eagles (or 1.26% of the LAP).

The Service has established take limits for golden eagle populations by EMU in the FEA for the 2009 Eagle Act take regulations and these were revised in the PEIS. This Project is within the Pacific Flyway EMU, which has an annual take threshold of zero golden eagles per year (Service 2016b). The predicted take of golden eagles at the Project is 4.1 golden eagles per year, however this exceeds the EMU take limit. Therefore, the Applicant has committed to retrofitting high-risk power poles proportional to the predicted and adjusted eagle take estimate as compensatory mitigation, for the loss of golden eagles as a condition of approval related to the IETP. Therefore, there are no significant adverse cumulative effects contributed by the Project under the Selected Alternative.

8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

The National Historic Preservation Act (NHPA) of 1966 (54 U.S.C. § 300101 *et seq*. [2017]) is legislation intended to preserve historical and archaeological sites in the U.S. Historic properties are defined as "any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in the National Register of Historic Places maintained by the Secretary of the Interior." This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register Criteria (36 C.F.R. § 800.16(l)(1) [2009]). Some tribes and tribal members may consider eagle nests and other areas where eagles are present to be sacred sites provided for in the American Indian Religious Freedom Act of 1978 (42 U.S.C. § 1996 *et seq*. [2010]). Such sites may also be considered properties of traditional religious and cultural importance to an Indian Tribe (commonly referred to as Traditional Cultural Properties or TCPs), and as potential historical properties of religious and cultural importance of NHPA.

Our authority is limited to potentially authorizing take of eagles by the Project. Apart from eagles, impacts to historical resources associated with construction of the Project are outside the scope of our review.

No new ground-disturbing activities will occur as part of or related to issuing IETP.

We contacted 19 native sovereign nation tribal leaders through formal letters, and other tribes potentially affected by this action. To date, we have not received any comments or consultation requests from Tribes. The current and future avoidance and minimization measures implemented at the Project will also minimize effects to TCPs.

We have determined that issuing an IETP will not result in the loss or destruction of significant scientific, cultural, or historical resources. The IETP will include permit conditions to ensure all recoverable eagle remains, parts, and feathers are sent to the National Eagle Repository and could then be used for Native American cultural and religious purposes.

9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

On July 14, 2022, the Service initiated an intra-service Section-7 consultation for the issuance of an IETP for the Project (Attachment 1, EA). It was determined that the Project will have "no effect" on two federally listed/proposed species, the threatened grizzly bear (*Ursus arctos horribilis*) and proposed North American wolverine (*Gulo gulo luscus*). Our decision regarding the IETP will not alter the physical footprint of the Project and will not alter its impacts to federally threatened and endangered species; therefore, no further evaluation of impacts to species listed under the Endangered Species Act (ESA) is warranted for the Service's decision of whether to issue an IETP.

10) Whether the action threatens a violation of Federal, State, or local law requirements imposed for the protection of the environment.

The Selected Alternative will not violate any Federal, State, or local law.

Findings

Under the Selected Alternative, we estimate that up to 110 bald eagles and up to 123 golden eagles (3.64 bald eagles and up to 4.1 golden eagles annually) could be taken by the Project over a 30-year period. The Selected Alternative requires implementation of the ECP. The ECP includes required permit conditions that will result in additional monitoring and operational adjustments. Permit conditions will be implemented based on the number of fatalities documented at the Project. Increased mortality monitoring associated with this alternative (i.e., evaluating all turbines during monitoring years), will help to ensure that fatalities are detected and will support validation of the take estimate. Increased monitoring also has the benefit of accelerating the use of the stepwise table if a fatality is discovered, thereby helping reduce future fatalities. The issuance of an IETP to the Applicant would have no significant adverse effects on environmental resources or values. Based on the intensity and context of these effects and consideration of the elements associated with the Selected Alternative, issuance of an IETP to the Applicant as analyzed in the attached EA is not expected to result in significant adverse effects to the human environment.

7. Conclusions

The Service developed the EA and findings in accordance with NEPA and the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA (40 C.F.R., Pt. 1500 [2020]). The Service concludes that, with the implementation of the avoidance, minimization, mitigation, and adaptive management measures outlined in the ECP, the Selected Alternative for issuance of an IETP to the Applicant for the operation at the Project will result in no significant impacts to the quality of the human environment, individually or cumulatively with other actions in the general area.

It is our determination that the Selected Alternative is not a major Federal action significantly affecting the quality of the human environment under Section 102(2)(c) (42 U.S.C. § 4332 [2010]) of NEPA. Accordingly, an EIS is not required and our environmental review under NEPA is concluded with this finding of no significant impact (40 C.F.R. § 1508.13 [2020] & 43 C.F.R. § 46.325 [2008]). As stated at the beginning of this document, the EA prepared in support of this finding is incorporated by reference and attached (Attachment 1) hereto. The EA is also available from the Service's online Drupal library website at: https://www.fws.gov/media/rim-rock-wind-energy-project.

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Regional Director
Mountain-Prairie Region
U.S. Fish and Wildlife Service

Date

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A. Attachment 1: Environmental Assessment for the Issuance of an Incidental Eagle Take Permit for the Rim Rock Wind Energy Project, Montana