



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

Ecological Services
Palm Springs Fish and Wildlife Office
777 East Tahquitz Canyon Way, Suite 208
Palm Springs, California 92262



In Reply Refer To:
FWS-IMP-10B0228-11F0453-R001

April 29, 2019
Sent by Email

Memorandum

To: Acting Field Manager, El Centro Field Office, Bureau of Land Management
El Centro, California

From: Assistant Field Supervisor, Palm Springs Fish and Wildlife Office
Palm Springs, California

Subject: Amendment to the Biological Opinion (FWS-IMP-10B0228-11F0453) for the Ocotillo Express Wind Project, Imperial County, California (3031-P) CAD000.06

This document amends the U.S. Fish and Wildlife Service's (Service) biological opinion (FWS-IMP-10B0228-11F0453), issued April 26, 2012, for the Ocotillo Express Wind Energy Project (Project). The Project, which started operating in December of 2012, consists of 112 wind turbines, an electrical substation, interconnection switchyard, access roads, 2 meteorological towers, a biological monitoring observation tower, and an operations and maintenance building. The observation tower is equipped with an experimental radar and camera system and has been staffed with a biologist during daylight hours to monitor for golden eagles.

Operations and Maintenance (O&M) conservation measures 1c and 1d from the April 26, 2012, biological opinion specify that a biologist was to be employed full-time during daylight hours by Ocotillo Express LLC (Applicant) for the first 10 years of operation of the Project to monitor for golden eagles and other raptor species. O&M conservation measures 1c and 1d also noted that the biologist, radar, and camera system would be used to help monitor for Nelson bighorn sheep [Peninsular Range DPS; Peninsular bighorn sheep (*Ovis canadensis nelsoni*); bighorn sheep]. O&M conservation measure 1e noted that the Bighorn Sheep Monitor for the Project would be allowed complete access to the tower, radar, and camera system.

The Applicant has employed a biologist full-time in the observation tower during daylight hours since the Project went into operations in 2012. As was noted in the April 26, 2012, biological opinion, the primary responsibility of the biologist in the observation tower was to look for golden eagles within and adjacent to the Project site. Over the period of 2012 to present, the biologists employed in the observation tower have also monitored for bighorn sheep, but the experimental radar and camera system in place in the tower has never detected bighorn sheep.

In 2013, the Project Applicant, in coordination with the Bureau of Land Management (BLM) and the Service, began the permitting process to obtain an Eagle Take Permit for the Project. The Applicant submitted an Eagle Take Permit application to the Service, which included an Eagle Conservation Plan.

The BLM and Service prepared an Environmental Assessment (EA) pursuant to the National Environmental Policy Act in response to the Eagle Take Permit application as well as the Applicant's request to amend the right-of-way (ROW) grant for the Project. The ROW grant amendment included a request to remove the requirement of the experimental camera, radar, and full-time biological monitoring in the observation tower that was intended to minimize risk to eagles. In March 2019, the BLM and Service issued a Finding of No Significant Impact, selecting Alternative 2 of the EA, which includes the ROW grant amendment removing the requirement for the experimental camera, radar, and full-time biological monitoring in the observation tower.

On March 29, 2019, the Service approved the Project's Eagle Conservation Plan (Service 2019) and issued a 5-year Eagle Take Permit (MB56658B-0). The Service concluded risk to eagles occurring near the Project site has been effectively reduced with implementation of the Eagle Conservation Plan. Because eagle risk has been reduced and the tower has not been effective in locating bighorn sheep on the Project site, O&M conservation measures 1c, 1d, and 1e from the April 26, 2012, biological opinion, are no longer applicable and no longer need to be implemented.

We are also amending construction conservation measure number 12 to provide additional time needed to restore habitat that was temporarily disturbed during Project construction. Therefore, conservation measure number 12 is amended to the following:

12. All temporarily disturbed areas within the project site will be revegetated according to a habitat restoration/revegetation plan approved by the BLM, Service, and California Department of Fish and Game [which is now known as the California Department of Fish and Wildlife (CDFW)]. This plan must be approved in writing prior to the initiation of any vegetation-disturbing activities. Restoration involves recontouring the land and replacing topsoil (if it was collected). Revegetation involves planting seed and/or container stock, maintaining the plantings (e.g., weeding, replacement planting, supplemental watering), and monitoring the restored/ revegetated areas for a period of 5 years (or less if the restoration/revegetation meets all success criteria prior to the end of 5 years). The plan will include measures for conducting revegetation/restoration in desert communities, including alleviating soil compaction, returning the surface to its original contours, pitting, or imprinting the surface to allow small areas where seeds and rain water can be captured, planting seedlings with root mass necessary to survive without watering, planting seedlings in the spring with herbivory cages, broadcasting locally collected seed immediately prior to the rainy season, and covering seeds with mulch. If after 5 years of monitoring there are areas that do not meet the success criteria outlined in the plan, areas will be acquired and conserved off site at a 1:1 ratio of equal or better quality habitat compared to what was impacted or the restoration and monitoring period will be extended in consultation with the BLM, Service, and CDFW.

Incorporating the modifications of this amendment into our original biological opinion does not change our conclusion in that biological opinion. All other portions of the April 26, 2012, biological opinion remain unchanged.

If you have any questions or concerns about this amendment to the April 26, 2012, biological opinion, please contact Felicia Sirchia of my staff at (760) 322-2070, extension 405.

LITERATURE CITED

[Service] U.S. Fish and Wildlife Service. 2019. Environmental Assessment, Ocotillo Wind Energy Facility, Eagle Conservation Plan. Prepared by Division of Migratory Bird Management, Sacramento, CA.