



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Southwest Region



In reply refer to:

2800 Cottage Way, Room W-2606
Sacramento, California 95825-1846

OCT - 4 2011

Memorandum

To: Jim Kenna, California State Director, Bureau of Land Management

From: Alexandra Pitts, Deputy Regional Director, Pacific Southwest Region
Sacramento, California

Subject: Tule Wind Project Avian and Bat Protection Plan

We are writing in response to the August 26, 2010 memo we received from California BLM's Acting State Director seeking input with respect to *Eagle Act Consultation for Renewable Energy Projects*. In that regard, the U.S. Fish and Wildlife Service (Service) has reviewed the Tule Wind Project Avian and Bat Protection Plan (ABPP). Our review is in the context of our legal mandate and trust responsibility to maintain healthy migratory bird populations for the benefit of the American public pursuant to the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA).

The Service has worked cooperatively with Iberdrola Renewables, Inc. and their contractor, Tetra Tech EC Inc. on the development of the Tule Wind Project ABPP designed to avoid, minimize and monitor project impacts to migratory birds, bats and eagles. The Service appreciates the Bureau of Land Management's cooperation and willingness to continue coordinating with the Service to ensure that the monitoring methods will result in statistically valid data collection.

The Service's response regarding the ABPP applies only to the project analyzed as Phase I in the ABPP and as specifically defined in section C.4.2.5 "Tule Wind Alternative 5, Reduction in Turbines" of the project's Final Environmental Impact Statement (FEIS). Phase II is defined as the remainder of the turbines as described in the FEIS's Proposed Action. We anticipate reviewing the additional data necessary for us to evaluate a supplemental ABPP for Phase II. The Service believes that the ABPP for the Tule Wind Energy Project is appropriate in its adaptive management approach to avoid and minimize take of migratory birds, bats and eagles within the Phase I project area.

Please be advised that the ABPP is not a surrogate take permit, therefore it does not limit or preclude the Service from exercising its authority under any law, statute, or regulation, nor does it release any individual, company, or agency of its obligations to comply with Federal, State, or local laws, statutes, or regulations.

This project specific ABPP could serve as the basis for a programmatic eagle take permit application. Due to the potential for eagle take, we recommend that the Iberdrola apply for a programmatic eagle take permit for the Tule Wind Project. Please contact Ms. Heather Beeler, Eagle Permit Specialist, at heather_beeler@fws.gov or 916/414-6651 to discuss this process.

cc: Amy Fesnock, Bureau of Land Management; Stu Webster, IberdrolaRenwables Inc.; Karen Goebel, Carlsbad Fish and Wildlife Office;

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