



U.S. Fish and Wildlife Service

# **Issuance of Two Incidental Eagle Take Permits for Mountain Wind I and Mountain Wind II Wind Energy Projects in Uinta County, Wyoming**

## **Finding of No Significant Impact**

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## List of Abbreviations and Acronyms

ACHP	Advisory Council on Historic Preservation
C.F.R.	Code of Federal Regulations
EA	Environmental Assessment
ECP	Eagle Conservation Plan
EIS	Environmental Impact Statement
EMU	Eagle Management Unit
ESA	Endangered Species Act
F.R.	Federal Register
FONSI	Finding of No Significant Impact
IETP	Incidental Eagle Take Permit
LAP	Local Area Population
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NRHP	Nation Register of Historic Places
PEIS	Programmatic Environmental Impact Statement
SHPO	State Historic Preservation Office
Service	United States Fish and Wildlife Service
TCPs	Traditional Cultural Properties
U.S.C.	U.S. Code
WTG	Wind Turbine Generator

## 1 Introduction

This Finding of No Significant Impact (FONSI) addresses the issuance of two incidental eagle take permits (IETPs) pursuant to the Bald and Golden Eagle Protection Act (Eagle Act) and its 2016 implementing regulations (16 U.S.C. §§ 668–668e; *see also* 50 C.F.R. § 22.80) rather than under the newly published 2024 regulations to Mountain Wind Power, LLC, and Mountain Wind Power II, LLC, (individually, Applicant, and collectively, Applicants). The Applicants seek two permits for non-purposeful take of eagles under the Eagle Act for the operation of Mountain Wind I Wind Energy Project (MW-I) and Mountain Wind II Wind Energy Project (MW-II) (collectively, Projects), located in Uinta County, Wyoming. MW-I consists of 29 Suzlon 2.1 MW wind turbine generators (WTGs) and associated infrastructure (e.g., roads, transmission lines), has a 60.9 MWs total output, and has been operating since July 2008. MW-II consists of 38 Suzlon 2.1 MW WTGs and associated infrastructure, has a 79.8 MW total output, and has been operating since September 2008.

In accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321–4347) and its implementing regulations (40 C.F.R. pt. 1500; *see also* 43 C.F.R. pt. 46), and Service NEPA requirements (516 DM 1–4, 8), the Service prepared an Environmental Assessment (EA) analyzing the impacts to the human environment associated with permit issuance (*Environmental Assessment for the Issuance of Two Incidental Eagle Take Permits for Mountain Wind I and Mountain Wind II Wind Energy Projects in Uinta County, Wyoming*). As required as part of the permit applications, the Applicants submitted two Eagle Conservation Plans (ECPs) (Attachments A and B in the EA). The EA analyzed two alternatives, not issuing the permits (the no action alternative or alternative 1) or issuing the permits (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 ECPs.

The EA and ECPs 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; *see also* 50 C.F.R. § 22.80). 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 two IETPs for activities under our proposed action described in the EA.

## 2 Background

The EA analyzes the effects of our proposed issuance of two 30-year IETPs 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 IETPs will expire after 30 years. The Applicants could then choose to apply for new permits.

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 two amended permit application packages from the Applicants on March 20, 2023. The application packages included ECPs. The EA evaluates impacts to the human environment resulting from issuance of two IETPs under the 2016 eagle regulations. Pursuant to the “high quality” information standards of the NEPA regulations (40 C.F.R. § 1500.1(b)), 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* (Service 2016a) and the *Programmatic Environmental Impact Statement for the Eagle Rule Revision* (PEIS; Service 2016c).

Our Collision Risk Model (CRM) predicts that there could be up to 0.01 bald eagles and up to 0.6 golden eagles taken per year at MW-I, and up to 0.01 bald eagles and up to 2.81 golden eagles taken per year at MW-II (*see* EA sections 4.1.1–4.1.3).

The Applicants continue to demonstrate a good-faith effort to comply with the Eagle Act while we developed this EA and process the IETP applications.

### **3 Alternatives Considered**

#### **3.1 Introduction**

The EA considered alternatives for issuance of two permits to take bald eagles and golden eagles at the Projects. The EA analyzed the effects of our proposed issuance of two 30-year IETPs on the human environment and evaluates impacts over the 30-year duration of the IETPs as related to the Project operation over the 30-year term. The permits expire after 30 years. Afterwards, the Applicants would be required to seek new permits if the Applicants wish to avoid the risk of prosecution for unauthorized eagle take.

The NEPA 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)). This is also consistent with Council on Environmental Quality and Department of Interior NEPA implementing regulations (40 C.F.R. Part 1500 and 43 C.F.R. § 46.300), and Service requirements (516 DM 1–4, 8).

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 Alternative 1: No Action

Under the no action alternative, the Service would deny the permit applications, and not issue IETPs. Our permit issuance regulations at 50 C.F.R. § 13.21(b) & (c) 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 Migratory Bird Treaty Act (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 two IETPs. Under the no action alternative, the Projects would likely continue to operate without IETPs being issued. Thus, for purposes of analyzing the no action alternative, we assume that the Applicant will implement all measures required by other agencies and jurisdictions while operating the Projects, but the conservation measures proposed in the IETP application packages 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. The Service can deny the IETPs if the permit applications fail to meet one or more of several issuance criteria under 50 C.F.R. § 22.80 or because the risk to eagles is so low that IETPs are unnecessary.

### 3.3 Proposed Action

Under the proposed action, we would issue two 30-year IETPs to the Applicants, authorizing take of up to 0.01 bald eagles and up to 0.6 golden eagles annually at MW-I (for a total authorized take of up to 1 bald eagle and up to 18 golden eagles over the life of the permit), and up to 0.01 bald eagles and up to 2.81 golden eagles annually at MW-II (for a total authorized take of up to 1 bald eagle and up to 85 golden eagles over the life of the permit) with associated conditions, as allowed by regulation for the operation of the Projects. The Applicants 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 ECPs and Avoidance and Minimization, Post Construction Monitoring, Eagle Conservation Management, 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 (Attachment 1, Chapter 4).

The 30-year IETPs 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 ECPs (Sections 9-11).

The IETPs are issued for 30 years and would apply to the operation of all 29 WTGs at MW-I and 38 WTGs at MW-II, along with ongoing operation of site infrastructure, effective immediately upon issuance of the permits. At the end of the 30-year permit terms, the Applicants may choose to apply for new permits under the regulations in place at that time.

Both Projects were operational prior to the final Service regulations in 50 C.F.R. pt. 22; therefore, these Projects do not require compensatory mitigation for an IETP. Compensatory mitigation is required for any permitted take above baseline levels. Baseline population size and take levels were calculated in 2009; therefore, any take that was occurring before this time is included as part of the baseline and does not need to be mitigated. If the Applicants repower the Projects during the 30-year permit period, a new take estimate will be calculated, and the permit will be amended to require compensatory mitigation for any take above the current estimated levels. As explained in the EA, the Project is in the Central Flyway Eagle Management Unit (EMU). The estimated take is analyzed at the Local Area Population (LAP) scale, corresponding to an 86-mile radius around the Projects for bald eagles and a 109-mile radius around the Projects for golden eagles, based on the median natal dispersal distance of each species (Service 2016b).

### 3.4 Comparison of Effects of Alternatives

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

	<b>Proposed Action – Issue Permits</b>	<b>Alternative 1 – No Action</b>
<b>Eagle Take Levels</b>	Up to 1 bald eagle and up to 18 golden eagles over 30 years at MW-I and up to 1 bald eagle and up to 85 golden eagles over 30 years at MW-II. In practice we anticipate lower take levels due to avoidance and minimization actions that will be required under the permits.	Up to 1 bald eagle and up to 18 golden eagles over 30 years at MW-I and up to 1 bald eagle and up to 85 golden eagles over 30 years at MW-II.
<b>Avoidance and Minimization</b>	Project is operational and will continue to operate.	Project is operational and will continue to operate.
<b>Compensatory Mitigation</b>	As the Projects were operational prior to the final Service regulations, <i>see</i> 50 C.F.R. pt. 22, the Projects do not require compensatory mitigation for the IETPs.	None

<b>Unmitigated Eagle Take</b>	Project take is considered part of the baseline level of take and mitigation is not required.	Up to 1 bald eagle and up to 18 golden eagles over 30 years at MW-I and up to 1 bald eagle and up to 85 golden eagles over 30 years at MW-II.
<b>Adaptive Management</b>	The plan is to avoid and minimize impacts to avian resources.	The plan is to avoid and minimize impacts to avian resources.
<b>Data Collected by Service</b>	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.
<b>Company Liability for Eagle Take</b>	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 two 30-year IETPs. 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).

### 3.6 Selected Alternative

The Selected Alternative for this action is the proposed action (issuance of two IETPs), 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 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 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 2016c).



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; Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests, *see* 50 C.F.R. 13 and 22). 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 Eagle Conservation Plan Guidance (ECPG) (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 eagle fatalities for these Projects, 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 collision probability prior was updated iteratively using the expected value of fatalities estimated in Evidence of Absence (EOA) statistical approach and software for each year of monitoring data provided (Dalthorp et al. 2017).

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

#### 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 ECPG (Service 2013). Utilizing this process, we estimated annual bald eagle fatality rates within the LAP (an 86-mile radius around the Projects for bald eagles and a 109-mile radius for golden eagles). This analysis included available data from the EMU in which the Project occurs (Central Flyway EMU). We developed this conservative estimate of population level effects to be protective of the species.

##### 4.3.1 *Bald Eagles*

The predicted take of bald eagles at the Projects is up to 0.01 per year. The estimated median population size of bald eagles in the Central Flyway EMU is 30,427 (Service 2020). Based on the Service's process to calculate the LAP, the population size in the LAP is estimated to be 62 eagles and the annual 1% and 5% benchmarks for this LAP are about one and three bald eagles, respectively. There are two short-term projects currently permitted for disturbance take that overlap 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 0.03 bald eagles (or 0.05% 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 45 reported bald eagle mortalities within the LAP between 2013 and 2022, for an average of 4.5 per year. These mortalities are all considered to be unpermitted take. Of the 45 mortalities, five deaths resulted from unknown causes, 10 were due to non-anthropogenic causes, and the remaining 30 were due to anthropogenic causes (e.g., electrocution, shooting, poisoning). On an annual basis, 4.5 unpermitted bald eagle takes equals about 7.3% 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 Projects. The adaptive management strategy outlined in the EA and the Applicant's ECPs are intended to minimize ongoing take at the facility.

#### 4.3.2 *Golden Eagles*

The predicted take of golden eagles at the Projects is 3.41 per year. The estimated median population size of golden eagles in the Central Flyway EMU is 13,210 (Service 2016a). Based on the Service's process to calculate the LAP, the population size in the LAP is estimated to be approximately 832 eagles and the 1% and 5% benchmarks for this LAP are 8 and 42, 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.

There is one currently permitted project LAP boundary that overlaps the Project's LAP boundary for golden eagles, along with three short-term projects with disturbance take permits. Taken together, the take of MW-I and MW-II and overlapping take of the other permitted projects could result in a total annual take of 4.3 golden eagles (or 0.52% of the LAP). Hence, this level of cumulative take would not exceed the 5% benchmark 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 Central Flyway EMU, the annual take limit is set at zero for golden eagles (Service 2016b); therefore, issuance of the two permits would exceed the EMU take levels. Normally, any take of golden eagles under an IETP must be offset by compensatory mitigation. However, because both MW-I and MW-II were in operation

prior to the final Service regulations in 50 C.F.R. pt. 22, the Projects were part of the initial baseline take calculations and do not require compensatory mitigation for an 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 between the years 2013 and 2022 (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 F.R. 91499 (Dec. 16, 2016)).

Our analysis documents that there were 133 reported golden eagle mortalities within the LAP between the discovery period of 2013 and 2022, for an average of 13.3 per year. These mortalities are all considered to be unpermitted take. Of the 133 mortalities, 32 deaths resulted from unknown causes, six were due to non-anthropogenic causes, and the remaining 95 were due to anthropogenic causes (e.g., electrocution, shooting, poisoning, collision with wind turbines). On an annual basis, 13.3 unpermitted golden eagle takes equals about 1.6% of the total golden eagle population in the LAP associated with the Projects. 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 Applicants' ECPs are intended to minimize ongoing take at the facility.

#### 4.4 Conclusion

The take that would be authorized by these permits does not exceed 5% of the LAP for bald eagles (*see* Attachment 1, Section 4.2.1) or 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 these permits would exceed the EMU take level. Normally, any take of golden eagles under an IETP must be offset by compensatory mitigation. However, because both MW-I and MW-II were in operation prior to the final Service regulations (50 C.F.R. pt. 22), the Projects were part of the initial baseline take calculations and do not require compensatory mitigation for an IETP. *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 IETPs to the Applicants.

#### 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.

We contacted eleven native sovereign nation tribal leaders potentially affected by these Projects through emailed formal letters to offer the opportunity for formal consultation concerning this potential federal action. The letters informed the tribal leaders of the receipt of the IETP applications 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 IETPs 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 Projects will also minimize effects to Traditional Cultural Properties (TCPs). 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/mountain-wind-i-and-ii-wind-energy-projects>) on May 23, 2023, opening a 30-day public comment period which ended on June 22, 2023. We received one letter from the Wyoming Game and Fish Department (WGFD) containing comments and recommendations during the public review period. The WGFD comments were regarding whether the cost cap would adequately serve to minimize impacts to eagles, why the appendices are missing from the EA, and why permit conditions are not included in the EA. A response to comments and recommendations was provided by the Service. The comments and responses, as well as the comment letter, are presented in Attachment 2. 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).

## 6 Eagle Take Permit Issuance Criteria Required Determinations

In consideration of these two 30-year permits, 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; Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests, 81 F.R. 91494 (Dec. 16, 2016)).

Applicants whose otherwise lawful activities may result in take of eagles can apply for an IETP so that their projects 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 (50 C.F.R. § 22.80). 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. § 22.80; *see also* Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests, 81 F.R. 91551 (December 16, 2016)). The preservation standard under the Eagle Act means to be consistent with the goal of maintaining stable or increasing breeding populations of bald and golden eagles in all EMUs and the persistence of local populations throughout the geographic range of each species (50 C.F.R. § 22.6).

We evaluated the ability of the Final EA's Selected Alternative's (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)). 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 EMU and LAP, 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 these Projects combined with the overlapping take of two other projects could result in a total of 0.03 bald eagles (or 0.05% of the LAP). The take at the LAP level of 0.05% 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 Central 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 these Projects combined with the overlapping take of four other projects could result in a total annual take of 4.3 golden eagles (or 0.52% of the LAP), which is below the 5% LAP benchmark and therefore is compatible with the preservation of golden eagles. For the Central Flyway EMU, the annual take limit is set at zero for golden eagles (Service 2016b). Normally, any take of golden eagles under an IETP must be offset by compensatory mitigation. However, because both MW-I and MW-II were in operation prior to the final Service regulations in 50 C.F.R pt. 22, the Projects were part of the initial baseline take calculations and do not require compensatory mitigation for an 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 Projects are operating wind facilities consisting of 67 WTGs (29 at MW-I and 38 at MW-II). It previously received other environmental compliance authorizations including the Wyoming Industrial Siting Council permit and Wyoming Game and Fish Department Chapters 10 and 33 permits. The Applicants are seeking IETPs to comply with the Eagle Act, as they anticipate unintentional take of bald eagles and golden eagles will occur from Project operations. 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 Projects currently collect and deliver renewable energy. The Service has determined that unintentional take of bald eagles and golden eagles is associated with, but not the purpose of, the Projects.

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

The Applicants have developed Eagle Conservation Plans (ECPs), which were developed with assistance from the Service. The ECPs outline a framework for implementation of avoidance and minimization measures to ensure compliance under the Eagle Act. The ECPs and Selected Alternative also include adaptive management frameworks to address potential long-term effects. The Service has determined that the take is unavoidable because the Projects have 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 Projects on the eagle populations are anticipated to be up to 0.01 bald eagles and up to 0.6 golden eagles annually at MW-I (for a total authorized take of up to 1 bald eagle and up to 18 golden eagles over the life of the permit), and up to 0.01 bald eagles and up to

2.81 golden eagles annually at MW-II (for a total authorized take of up to 1 bald eagle and up to 85 golden eagles over the life of the permit).

- 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 Projects (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 these Projects. Further, because both MW-I and MW-II were in operation prior to the final Service regulations in 50 C.F.R. pt. 22, the Projects were part of the initial baseline take calculations and do not require compensatory mitigation for an IETP.

### 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 1.2 to 1 ratio. As golden eagle take limits for all EMUs were determined to be zero (Service 2016b), compensatory mitigation is necessary to offset any authorized take of golden eagles. However, because both MW-I and MW-II were in operation prior to the final Service regulations in the 50 C.F.R. pt. 22, the Projects were part of the initial baseline take calculations and do not require compensatory mitigation for an IETP.

- 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 permits 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 Projects.

## Conclusion

The Service has determined that issuing these permits 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 EMUs 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 and as summarized in the EA.

### Context

The NEPA 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)). For purposes of analyzing the Selected Alternative, the Service is required to consider effects of IETPs on eagle populations at three scales: (1) the EMU, (2) local area, and (3) project area (50 C.F.R. § 22.80 (f)). 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 a 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 (*see* Attachment 1):

- The Projects occur within the Central Flyway EMU, and our assessment is that bald eagle take authorized by the Service within this EMU is 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.

At the LAP level, the Service authorized take, added to projected take for the Projects, is 0.05% 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 0.05% 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 45 reported bald eagle mortalities within the LAP between 2013 and 2022, for an average of 4.5 per year. Of the 45 mortalities, five deaths resulted from unknown causes, 10 were due to non-anthropogenic causes, and the remaining 30 were due to anthropogenic causes (e.g., electrocution, shooting, poisoning). On an annual basis, 4.5



unpermitted bald eagle takes equals about 7.3% of the total estimated bald eagle population in the LAP associated with the Projects. 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 Projects under the Selected Alternative.

- The predicted take of golden eagles at the Project is 3.41 per year. The estimated median population size of golden eagles in the Central Flyway EMU is 15,327 (Service 2016a). Based on the Service's process to calculate the LAP, the population size in the LAP is estimated to be 832 eagles and the 1% and 5% benchmarks for this LAP are 8 and 42, 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 current permitted take of golden eagles existing within this LAP combined with the estimated take for the Projects is 4.3 golden eagles (or 0.52% of the LAP), which is below the 5% LAP benchmark. Hence, this level of cumulative take would not exceed the 5% benchmark 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 2013 through 2022 (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 133 reported golden eagle mortalities within the LAP in the discovery period of 2013 through 2022, for an average of 13.3 per year. On an annual basis, 17 unpermitted golden eagle takes equals about 1.6% of the total golden 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. As described above, the EMU take level for golden eagles is zero; therefore, issuance of these permits would exceed the EMU take level. Normally, any take of golden eagles under an IETP must be offset by compensatory mitigation. However, because both MW-I and MW-II were in operation prior to the final Service regulations in 50 C.F.R. pt. 22, the Projects were part of the initial baseline take calculations and do not require compensatory mitigation for an IETP. Therefore, there are no significant adverse effects on golden eagles contributed by the Projects under the Selected Alternative.
- The Applicants may reduce the actual amount of bald eagle and golden eagle take (compared with our take estimates for the Projects) 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 the IETPs to the Projects on the local and regional bald eagle and golden eagle populations will not be significant.
- Issuance of the IETPs to the Projects 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. 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) directs Federal agencies to consider ten specific factors, each of which is discussed below in relation to the Selected Alternative for the Projects.

*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 EIS. The potential beneficial effects and adverse impacts of the Selected Alternative are discussed below.

*Beneficial Effects.* The Selected Alternative includes implementation of the ECPs and adaptive management, which includes mortality monitoring that will benefit the Service's understanding of mortality of bald eagles and golden eagles at the Projects. Our analysis is in comparison to the no action alternative under which the Projects continue to operate without any IETP requirements and only limited conservation commitments. Issuance of these permits will allow the Projects 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 Applicants have worked with the Service in development of the ECPs 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 Projects' ECPs describe 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 EA 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 two IETPs for non-purposeful take of eagles at the Projects. 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 IETPs to the Applicants, 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 IETPs for the Projects' 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 two IETPs to the Applicants 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) 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.” These Projects are likely to take eagles, and there is no dispute about that consequence. We received one letter from the Wyoming Game and Fish Department (WGFD) containing comments and recommendations during the public review period. The WGFD comments were regarding whether the cost cap would adequately serve to minimize impacts to eagles, why the appendices are missing from the EA, and why permit conditions are not included in the EA. A response to comments and recommendations was provided by the Service. 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 ECPs prepared for the Projects 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 term of the permits at a number of turbines and frequency of occurrence as agreed to by the Applicants and the Service.

The Adaptive Management Plan will further reduce and monitor potential impacts to eagles from operation of the Projects. Issuance of the permits and the implementation of the ECPs 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 Projects 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 two IETPs to the Projects 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, these Projects 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) and the Eagle Act's permitting regulations. Under 50 C.F.R. 22.80 (f)(1), 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 62 eagles and the annual 1% and 5% benchmarks for this LAP are about one and three bald eagles, respectively. There are two short-term projects currently permitted for disturbance take that overlap the Projects' LAP boundary for bald eagles. Therefore, this Project could result in a total annual take of 0.03 bald eagles (or 0.05% 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 Central Flyway EMU, which has an annual take threshold of 70 bald eagles per year (Service 2016b). The predicted annual take of bald eagles at the Projects is up to 0.02 bald eagles per year. Therefore, the annual population effects in the Central Flyway EMU would be below the corresponding take threshold. Therefore, there are no significant adverse cumulative effects contributed by these Projects under the Selected Alternative.

### **Golden Eagles**

The LAP of golden eagles for the Projects is approximately 832 eagles and the 1% and 5% benchmarks for this LAP are 8 and 42, respectively. There is one currently permitted wind energy project that overlaps the Project's LAP boundary for golden eagles, along with three short-term projects with disturbance take permits. Taken together, the take of MW-I and MW-II and overlapping take of the other permitted projects could result in a total annual take of 4.3 golden eagles (or 0.52% 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

Central Flyway EMU, which has an annual take threshold of zero golden eagles per year (Service 2016b). The predicted take of golden eagles at the Projects is 3.41 golden eagle per year, which exceeds the EMU take limit. Normally, any take of golden eagles under an IETP must be offset by compensatory mitigation. However, because both MW-I and MW-II were in operation prior to the final Service Eagle Act regulations in the F.R. notice of September 11, 2009, the Projects were part of the initial baseline take calculations and do not require compensatory mitigation for an IETP. Therefore, there are no significant adverse cumulative effects on golden eagles contributed by the Projects 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 NHPA of 1966 (54 U.S.C. § 300101 *et seq.*) 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(1)(1)). 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.*). Such sites may also be considered properties of traditional religious and cultural importance to an Indian Tribe (commonly referred to as 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 Projects. Apart from eagles, impacts to historical resources associated with construction of the Projects are outside the scope of our review.

No new ground disturbing activities will occur as part of or related to issuing the IETPs.

We contacted eleven native sovereign nation tribal leaders through formal letters. To date, we have not received any comments or consultation requests from Tribes. The current and future avoidance and minimization measures implemented at the Projects will also minimize effects to TCPs.

We have determined that issuing two IETPs will not result in the loss or destruction of significant scientific, cultural, or historical resources. The IETPs 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 ESA of 1973.*

On February 20, 2024, the Service initiated an intra-service Section-7 consultation for the issuance of two IETPs for the Projects (Attachment C in the EA). It was determined that issuance of IETPs for the Projects will have “no effect” on eight federally listed species: Ute ladies’-

tresses, the western U.S. distinct population segment of the yellow-billed cuckoo, North American wolverine (*Gulo gulo luscus*), monarch butterfly (currently a candidate for federal listing), and four fish species: bonytail, Colorado pikeminnow, humpback chub, and razorback sucker. Our decision regarding the IETPs will not alter the physical footprint of the Projects and will not alter their impacts to federally threatened and endangered species; therefore, no further evaluation of impacts to species listed under the ESA is warranted for the Service's decision of whether to issue the IETPs.

*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 2 bald eagle and up to 103 golden eagles (0.01 bald eagles and 3.41 golden eagles annually) could be taken by the Projects 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 two IETPs to the Applicants 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 two IETPs to the Applicants 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 FONSI in accordance with the NEPA of 1969, as amended, and the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA (40 C.F.R. Part 1500). 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 two IETPs to the Applicants for the operation at the Projects 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) of the NEPA. Accordingly, an EIS is not required and our environmental review under the NEPA is concluded with this FONSI (40 C.F.R. § 1508.13 & 43 C.F.R. § 46.325). 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/mountain-wind-i-and-ii-wind-energy-projects>.

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

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Date

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