



In Response Reply To:  
FWS/R8/MB&SP

## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Pacific Southwest Region  
2800 Cottage Way, Suite W-2606  
Sacramento, California 95825



Amy E. Parsons  
Senior Permitting Manager  
Iberdrola Renewables  
Permitting & Environmental Department  
1125 NW Couch St., Suite 700  
Portland, OR 97209

**AUG 01 2014**

Dear Ms. Parsons,

The U.S. Fish and Wildlife Service (Service) is writing in response to the programmatic eagle take permit application under the Bald and Golden Eagle Protection Act (Eagle Act) for Phase II of the Tule Wind Project, LLC that we received from you on March 14, 2014. Your submission included a draft Eagle Conservation Plan (ECP) as the foundation of the application. We have reviewed this document and have determined that your application package is incomplete. Therefore, we are returning your application, along with your check for the permit application fee.

The application package does not include information on the entire Tule Wind Project; it only includes information on Phase II, the portion of the project located on the ridgeline. Your application states that Iberdrola is not seeking eagle take coverage for Phase I of the Tule Wind Project. This portion of the project is located adjacent to the turbines on the ridgeline, on lands administered by the Bureau of Land Management (BLM). Based on our prior assessment of the turbines proposed in the valley, the Service concluded that Phase I of the Tule Wind Project has the potential to take golden eagles (*Aquila chrysaetos*) during the anticipated lifespan of the project, and recommended that you seek an Eagle Act take permit (Memo to BLM dated October 4, 2011). When the BLM approved a ROW grant for Phase I of this project, your company agreed to construct and operate Phase I. Your company also agreed to gather additional information about eagle use of the area and eagle mortality associated with Phase I of the project to better inform the risk to eagles associated with the potential approval of turbines on the ridge (Phase II of the project). Although Phase I was approved by BLM in 2011, your company has not started construction on Phase I and has linked construction of the turbines in the valley (Phase I) to the construction of the turbines on the ridgeline (Phase II). Thus, the Service does not consider this project to be phased, relative to permitting take under the Eagle Act.

In the current draft ECP impact assessment that you recently provided, an evaluation of the risk associated with Phase I of the project is not included. Due to the close proximity of the turbines in the valley and along the ridge, all the proposed turbines associated with this project should be analyzed and considered together as a single project. In addition, since both phases

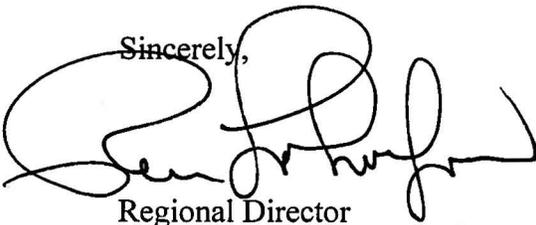
of this project are connected actions and both pose a risk of take to eagles, your application will need to include an impact assessment for the entire project. The Service requests that the Draft ECP be modified to include both Phase I and Phase II of the project because we have determined the two portions are connected and not true stand-alone phases.

We characterize the entire Tule Wind Project as a Category 1 - High Risk Project because it poses a high risk to eagles and the potential to avoid or mitigate impacts is low (see our ECP Guidance). We recommend that when you apply for an Eagle Act permit, you consider a different turbine siting design for the proposed turbines on the ridgeline or moving the project to another location to minimize and avoid eagle take at the Tule Wind Project.

On June 22, 2012, we provided comments to the Bureau of Indian Affairs (BIA) regarding our review of the *Draft Avian and Bat Protection Plan for the Tule Reduced Ridgeline Wind Project* (Phase II). In this correspondence we reiterated our request that the eagle risk assessment incorporate the eagle observational data and juvenile eagle telemetry data to assess risk. Your draft ECP did not incorporate this data as requested. As a result, the model does not accurately reflect risk to eagles.

We request that you resubmit your application package with all the information necessary to process your application for the proposed turbines in the valley and along the ridgeline. In addition, any pertinent information contained in your ABPP for Phase I of the project should be incorporated into your application package. Your resubmission should include all the raw eagle use data collected for this project to date, including the telemetry data, for our review and use in developing a comprehensive mortality estimate.

We look forward to working with you on your application. If you have any questions regarding this project, please contact myself or Assistant Regional Director, Mr. Eric Davis, at (916) 978-6189.

Sincerely,  
  
Regional Director

cc: Amy Dutschke, Regional Director, Pacific Region, Bureau of Indian Affairs  
Chairman, Ewiiapaayp Band of Kumeyaay Indians, Alpine, CA  
Karen Goebel, U.S. Fish and Wildlife Service, Carlsbad, CA  
Jennifer Deleon, California State Lands Commission, Sacramento, CA  
Jim Kenna, California State Director, Bureau of Land Management, Sacramento, CA  
Jill Birchell, USFWS, Office of Law Enforcement, Sacramento, CA