

**FINDING OF NO SIGNIFICANT IMPACT (FONSI)  
regarding**

**The U.S. Fish and Wildlife Service's Proposed Issuance of an Endangered Species Act  
Section 10(a)(1)(B) Incidental Take Permit for the Indiana Bat and Northern long-eared  
Bat to the Headwaters Wind Farm I LLC in Association with Implementation of the  
Indiana Bat and Northern Long-Eared Bat Habitat Conservation Plan for the Headwaters  
Wind Farm in Randolph County, Indiana**

**I. Introduction**

This Finding of No Significant Impact (FONSI) addresses the issuance of an incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended (ESA; 16 United States Code [USC] §§1531-1544) and its regulations pertinent to the incidental take permitting (50 Code of Federal Regulations [CFR] §22.26) related to the Headwaters Wind Farm (the Project), located in Randolph County, Indiana. The Project is owned and operated by Headwaters Wind Farm I LLC (Headwaters or Applicant), a wholly owned subsidiary of EDP Renewables North America LLC.

In accordance with the National Environmental Policy Act of 1969 (NEPA; 42 USC §4321 et seq.) and its implementing regulations (40 CFR §§1500-1508) and the Department of the Interior's regulations for implementing NEPA (43 CFR §§46.300-325), the U.S. Fish and Wildlife Service (Service) has completed an Environmental Assessment (EA) analyzing the effects on the human environment of issuing an Incidental Take Permit (ITP), pursuant to section 10(a)(1)(B) of the ESA, to Headwaters. The ITP would authorize take of the endangered Indiana bat (*Myotis sodalis*) and the threatened northern long-eared bat (*Myotis septentrionalis*) by covered activities carried out in conjunction with implementation of the Headwaters Wind Farm Habitat Conservation Plan (HCP) in Randolph County, Indiana. The above species are hereafter referred to as "Covered Species." The anticipated issuance date of the ITP is prior to the summer season, May 16, 2019.

The EA evaluated a range of reasonable alternatives, based on their ability to meet our purpose and need, and the associated impacts to the human environment. Upon review of the EA, the Service concludes that a finding of no significant impact is appropriate. Following review and analysis, the Service has chosen to issue an incidental take permit as described under our Preferred Alternative, which is Alternative 2 of the EA.

Background

The Project is a wind energy facility located in east-central Indiana. The Project's nameplate capacity is 200-megawatts (MW) and comprises 100 2.0-MW wind turbine generators, turbine pads, an operations and maintenance building, access roads, collector line system, switching station, meteorological (MET) towers, and a substation. Approximately 10 miles of overhead transmission line extends along Randolph County Road W 800S from Randolph County Road S 300W to Randolph County Road S 1200W.

The Project began operating in December 2014. In 2015, 2016, 2017, and 2018 Headwaters operated the Project under the terms of a Technical Assistance Letter (dated October 23, 2014) from the Service. The Service's Technical Assistance Letter requires a cut-in speed of 5.0 m/s

during the spring migration season (March 15 – May 15), a cut-in speed of 6.9 m/s at turbines with summer risk during the summer (May 16 – July 31), and a cut-in speed of 6.9 m/s in the fall (August 1 – October 15) until such time an ITP is issued. Due to the implementation of these measures, take of the Covered Species is unlikely to occur at the Project.

In order to decrease the operational cut-in speed of the turbines, thereby increasing the renewable energy output of the Project, Headwaters is requesting an ITP for take of the Covered Species that may occur as a result of the operation of the Headwaters Wind Farm over the next 27 years, and for mitigation activities implemented to offset the impact of take.

### Alternatives Considered

As referenced in the CEQ NEPA regulations regarding the contents of an EA (40 CFR §1508.9[b]) NEPA section 102(2)(E) requires agencies to develop, study, and briefly describe alternatives to any proposed action with the potential to result in unresolved resource conflicts. The EA describes the probable effects of the Applicant's proposed action, a no action alternative, and two other action alternatives. For a complete description of these alternatives and other alternatives that were considered but not evaluated further, see EA Chapter 3.

The alternatives vary by the operational adjustments and the extent of mitigation needed for offsetting the unavoidable take of Indiana bats and northern long-eared bats. Because operational adjustments are assumed to affect the level of take of covered species, they also define the amount of mitigation needed to compensate for the impact of the taking. For all four alternatives analyzed in the EA, the Applicant would implement the measures specified in their Bird and Bat Conservation Strategy (BBCS; Appendix A of EA).

Alternatives 1: No Action Alternative –Headwaters would continue to operate under the restrictions of the Technical Assistance Letter for the life of the project, or alternate operational measures under which take of Indiana and northern long-eared bats is unlikely to occur. Because take of Indiana and northern long-eared bats is unlikely to occur under these restrictions, Headwaters would not obtain an ITP or implement a HCP. Headwaters would conduct post-construction monitoring as specified in the Technical Assistance Letter and described in their Plan to Avoid Indiana Bat and Northern Long-Eared Bat Take at the Headwaters Wind Facility in Support of a USFWS Technical Assistance Letter.

Alternative 2: Proposed Action Alternative –Headwaters would implement the BBCS and HCP that includes: feathering of turbines at 3.5 m/s at night from April 1 – May 15, at 5.0 m/s at night at 10 turbines and 3.0 m/s at night at all other turbines from May 16 – July 31, and at 5.0 m/s at night from August 1 – October 15; mitigating for the impact of take through hibernaculum protection and summer/swarming habitat protection; conducting post-construction monitoring and implementing an adaptive management plan. The Service would issue an ITP for a 27-year permit term to authorize incidental take of Indiana and northern long-eared bats.

Alternative 3 – More Restrictive Operation Alternative – Headwaters would implement a BBCS and HCP that includes: feathering of turbines at 3.5 m/s at night from April 1 – May 15, at 6.5 m/s at night at 10 turbines and 3.0 m/s at night at all other turbines from May 16 – July 31, and at 6.5 m/s at night from August 1 – October 15; mitigating for the impact of take through hibernaculum protection and summer/swarming habitat protection; conducting post-construction

monitoring and implementing an adaptive management plan. The Service would issue an ITP for a 27-year permit term to authorize incidental take of Indiana and northern long-eared bats.

Alternative 4: Less Restrictive Operations Alternative –Headwaters would implement a BBCS and HCP that includes: feathering of turbines at 3.5 m/s at night from April 1 – May 15, at 4.0 m/s at night at 10 turbines and 3.0 m/s at night at all other turbines from May 16 – July 31, and at 4.0 m/s at night from August 1 – October 15; mitigating for the impact of take through hibernaculum protection and summer/swarming habitat protection; conducting post-construction monitoring and implementing an adaptive management plan. The Service would issue an ITP for a 27-year permit term to authorize incidental take of Indiana and northern long-eared bats.

## **II. Impact of HCP Implementation**

The EA evaluated potential impacts that could result from the issuance of the ITP and implementation of an associated HCP. The EA assisted us in evaluating effects on the human environment and in assessing the significance of the impacts that could result from the alternatives. "Significant" under NEPA requires consideration of both the context and intensity of short- and long-term effects of the proposal (40 CFR § 1508.27).

The Project has already been constructed and operating for four years. The effects associated with the Proposed Action (i.e., issuance of an ITP contingent on implementation of the HCP) are related to impacts from future Project operations and mitigation projects. Of these activities, only impacts from Project operations are anticipated to result in the incidental take of Covered Species.

Under the HCP, Headwaters commits to avoid and minimize take of Covered Species through the implementation of avoidance and minimization measures which include, but are not limited to:

- Conducting any maintenance tree clearing activities between October 1 and March 31;
- Feathering turbine blades below 3.5 m/s at night between April 1 and May 15 when the ambient temperature is above 50°F; and
- Feathering turbine blades below 5.0 m/s at night at 10 turbines with summer risk and below 3.0 m/s at night at all other turbines between May 16 and July 31; and
- Feathering turbine blades below 5.0 m/s at night between August 1 and October 15 when the ambient temperature is above 50°F.

Under the HCP, Headwaters also commits to mitigate the impacts of the take from the project through gating a Priority 2 Indiana bat hibernaculum, protection of suitable summer habitat within the home range of a known maternity colony(ies) of Indiana and northern long-eared bats, and protection of swarming habitat surrounding a Priority 1 Indiana bat hibernaculum. The summer habitat mitigation project must be sited in areas with known maternity colony presence within the state of Indiana. The swarming habitat mitigation project must be sited within the swarming range of a known hibernaculum. The projects will be implemented as soon as possible, but no later than 3 years after ITP issuance.

While impacts to wildlife resources will be minimized through measures specified in Headwaters' HCP and BBCS, Project operations are anticipated to have adverse effects to Indiana bats, northern long-eared bats, non-listed bats, and some birds. However, implementing the Proposed Action would not result in significant impacts on any of the environmental resources identified in the EA in consideration of the context and intensity of the project. The Proposed Action is consistent with our purpose and need as stated in the EA.

### **III. Public Involvement**

#### Release of draft EA and draft HCP

On August 14, 2018, the Service published the Draft EA and Draft HCP in the Federal Register (83 FR 40325). Public comments were accepted during a 30-day period following publication of the Federal Register Notice of Availability. The Service offered links to both documents on their website and provided copies whenever requested.

#### Public Comments

Eight comments from two organizations were received and taken into account in assessing Project impacts. Responses to comments on the Draft EA and Draft HCP can be found in Appendix B of the Final EA and are incorporated herein by reference.

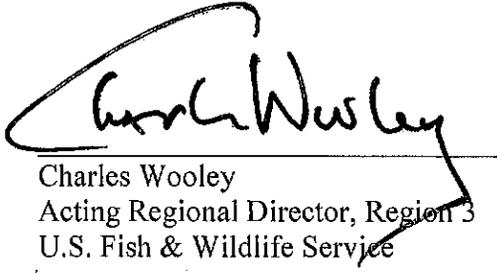
### **V. Service Finding**

Following a comprehensive review and analysis of the HCP and consideration of the findings presented in the EA and summarized above, the Service has selected the Proposed Action as the preferred alternative because it best meets the agency purpose and need to conserve listed bats, and respond to an ITP application, while fulfilling our statutory mission and responsibilities and considering economic, environmental, technical, and other factors. We base this decision on the review of information taken from:

1. agency and public comments on the draft EA and draft HCP;
2. considered alternatives and their environmental consequences disclosed in the draft EA and final EA;
3. the draft HCP and final HCP;
4. the Service's Biological Opinion; and
5. the Service's Statement of Findings.

### **VI. Conclusion**

Based on review and evaluation of the information contained in the supporting references, it was determined that the preferred alternative is not a major Federal action that would significantly affect the quality of the human environment, within the meaning of section 102(2)(c) of the NEPA. Accordingly, the Service is not required to prepare an environmental impact statement for this action. Furthermore, it was found that implementing the preferred alternative will have no significant impact on any of the environmental resources identified in the EA.

  
Charles Wooley  
Acting Regional Director, Region 3  
U.S. Fish & Wildlife Service

6/11/19  
Date