ENDANGERED SPECIES AND WILDLIFE – MITIGATION AS RISK MANAGEMENT

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Introduction

- How Mitigation Can Arise
- Recent Guidance
- Forms of Mitigation
- Mitigation Land Suite of Documents
- Impact on Development of Renewable Projects
- Common Issues

How Mitigation Can Arise

- Federal and state wildlife laws
- Conditions to other approvals (State/County use permits, BLM ROW, etc.)
- Voluntarily

Federal Wildlife Laws

- Endangered Species Act (ESA), Bald and Golden Eagle Protection Act (BGEPA), Migratory Bird Treaty Act (MBTA)
  - Minimization and mitigation a criterion of ESA section 10(a)(1)(B) permits
  - Incidental Take Permits and Habitat Conservation Plans
- Mitigation, while not required, often a component of ESA section 7 consultations
  - Concurrences and Biological Opinions (Example: desert tortoise mitigation, FHWA bat program)
- Mitigation can be a component of ESA section 4(d) rules (listings)
  - Example: Lesser Prairie Chicken WAFWA program

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