
Chapter 2

**EIS Scoping, Identification of
Alternatives, and Public Consultation**

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2 EIS Scoping, Identification of Alternatives, and Public Consultation

This section of the DEIS describes the public and agency involvement process used to develop the scope of, and identify the major issues to be discussed in the DEIS. This includes a discussion of the scoping process, issues identified during the scoping process, identification of alternatives to the Proposed Action, and opportunities for public and agency involvement during DEIS development.

2.1 Scoping Process

2.1.1 Scoping Requirements

NEPA (40 C.F.R. 1501) and USFWS guidelines (550 FW 2.3) specifically define the need for a public scoping process when preparing an EIS. The scoping process is an open public process initiated prior to the preparation of an EIS to define a reasonable scope for and reduce the magnitude of an EIS. In particular, the public scoping process should:

- Identify and invite the participation of affected agencies, tribes, and other parties through written comments, public meetings, or other forums;
- Identify the key issues and concerns regarding the Proposed Action;
- Identify only those potentially significant issues relevant to the Proposed Action (while eliminating unimportant issues from further study); and
- Define the form, level of detail, and content of the EIS.

Scoping typically begins with publication in the Federal Register of a notice of intent (NOI) to prepare an EIS. Public scoping for this DEIS was first initiated in the form of an NOI to conduct a 30-day scoping period for a NEPA decision on the proposed HCP and ITP and request for comments, published in the Federal Register on January 29, 2010 (75 FR 4840-4842). Formal scoping began for the NEPA analysis on May 26, 2010 when the NOI to prepare a DEIS was published in the Federal Register (75 FR 29575-29577).

2.1.2 Issues Identified During Scoping

Many concerns raised during the Federal scoping process centered on potential impacts to the Indiana bat. These concerns included the need for a full DEIS given the uncertainty of impacts and the implications of future wind projects, the need to implement the most protective alternative and mitigation measures, and the need for analysis of cumulative impacts that encompasses ongoing issues such as White Nose Syndrome (WNS), a fatal disease affecting bats in the eastern U.S. Other suggestions raised were to take into account the renewable energy generation aspects of the project, the use of innovative turbine lighting, and protection of cultural resources.

Public interaction and correspondence during the OPSB process was generally similar to the issues raised during an October 28, 2009 public hearing, required as part of the OPSB process. Concerns were expressed about the Project's potential impacts to health and safety associated

with noise, shadow flicker¹, and ice shedding. Questions were raised about the potential economic benefits of the Project and if it would receive special tax status. Several concerns raised were related to environmental impacts, particularly potential effects to Indiana bats, other bats, and birds. Additional concerns were raised about the potential impacts that turbine siting may have on two Champaign County airports.

The public's comments were used to develop the significant issues listed below, along with other issues that were also considered in disclosing environmental impacts. The significant issues were used to drive the analysis and were important in the development of the alternatives. These issues include the following:

- The ITP issued should contain terms and conditions for protecting Indiana bats;
- The Project should implement the alternative that affords protection for the Indiana bat;
- Cumulative effects analysis should encompass activities likely to occur over the life of the Project;
- The renewable energy generated by the Project would be used to assist with compliance with Federal policies that encourage development of renewable energy;
- Noise generated by the Project has the potential to affect the solitude of the area; and
- Cultural resources potentially affected by the Project should be identified and protected.

Along with those listed above, many substantive issues were brought forward during the Project's OPSB Application process, many of which were not restated during the NEPA scoping. However, these issues also were integral to developing the EIS effects analyses.

2.1.3 Issues Considered But Eliminated During Scoping

Following the review of scoping comments, the USFWS reviewed the range of resources that should be considered in an EIS as per NEPA and CEQ guidelines². This review determined that tourism is not relevant to the Proposed Action or alternatives and that expected impacts would be so minor that they did not need be addressed in the DEIS.

¹ Shadow flicker is defined as moving blades passing between the sun and a receptor, creating alternating changes in light intensity of shadows. The spatial relationship between a wind turbine and a receptor, along with weather characteristics such as wind direction and sunshine probability, are key factors related to shadow-flicker impacts. Shadow flicker becomes much less noticeable at distances beyond approximately 1,000 feet, except at sunrise and sunset when shadows are long (NRC, 2007).

² Resources considered for analysis in the EIS included: geology and soils, water resources, air quality including greenhouse gases and climate change, noise, biological resources including vegetation, wildlife, and threatened and endangered species, land use, recreation, tourism, visual resources, socioeconomics and environmental justice, cultural resources, transportation, and safety.

2.2 Alternatives Identified During the EIS Scoping Process

2.2.1 Proposed Action

The Proposed Action was developed with input from Buckeye Wind's application to the OPSB submitted in April 2009; public scoping in January and May 2010; and extensive consultation among Buckeye Wind, ODNR, and the USFWS regarding the HCP. The Proposed Action considers issuance of an ITP for construction, operation, maintenance, and decommissioning of a 100-turbine Project and implementation of all measures described in the HCP, including post-construction monitoring and adaptive management. Under this alternative, an ITP for Indiana bats would be issued contingent upon implementation of the HCP in its entirety, including post-construction monitoring to ensure that take remains at or below what is authorized in the ITP and an adaptive management strategy based on the results of post-construction monitoring to address take levels relative to operational constraints over the life of the Project.

2.2.2 Alternatives to the Proposed Action

The alternatives summarized in Table 2.2-1 were identified during scoping and development of the DEIS. As shown in this table, two screening criteria (purpose and need and siting requirements) were used to evaluate the potential alternatives. Some of the alternatives were excluded from further analysis for the following reasons: if they would not meet the underlying need for or purpose of the Project and associated federal action; if they would likely not have any significant environmental benefit compared to the Project as proposed; if they would likely have significantly greater adverse impacts compared to the Project, as opposed to another alternative; or if they lacked practicality or feasibility. Section 2.3 of this DEIS discusses the alternatives considered but eliminated from further analysis.

The reasonable alternatives included for consideration in this DEIS are discussed in Section 3.2 and are noted under the column entitled "Recommended Actions" in Table 2.2-1.

Table 2.2-1 Alternatives Considered

Alternative	Purpose and Need				Siting Criteria		Recommended Action	Comments
	Compliant with ESA, NEPA, and Other Applicable Federal Regulations	Supports Federal and/or State Renewable Energy Initiatives	Provides Air Quality Benefits	Protective of Indiana Bat ¹	Technical Feasibility	Commercially Viable for Applicant		
No Action	Yes	No	No	Yes	N/A	No	A	Statutory requirement.
Proposed Action: HCP, varied curtailment based on turbine risk category, Post Construction Mortality Monitoring (PCM), and Adaptive Management (AM)	U	Yes	Yes	U	Yes	Yes	A	Proposed Action designed to meet USFWS goals for Indiana bat. Able to meet generation goal of 250 MW and commercial viability.
Maximally Restricted Operations Alternative: Full turbine curtailment at night from April 1 through October 31	U (still need to evaluate other NEPA issues to determine if compliant)	Yes	Yes	Yes	Yes	No	A	Alternative would meet USFWS goals for Indiana bat. Applicant asserts that this alternative is not commercially viable (HCP Section 2.6.2.3 and Section 6.6.2).
Minimally Restricted Operations Alternative: HCP, full turbine curtailment at night with 5.0 m/s cut-in speed from August 1 through October 31, PCM, and AM	U	Yes	Yes	U	Yes	Yes	A	May not meet USFWS goals for Indiana bat. Able to meet generation goal of 250 MW and commercial viability.
Fewer turbines	U	Yes	Yes	U	U	U	X	Fewer turbines still pose a risk to Indiana bats; would not meet Applicant's generation goal (See Section 2.3.2).
Other locations in western Ohio	U	Yes	Yes	U	U	No ²	X	Proposed location provides adequate wind resource and technical feasibility; moving project may still put Indiana bats at risk in Ohio.
IIP of a shorter duration (<30 years)	U	Yes	Yes	U	U	No	X	Likely that Applicant would not be able to obtain funding to construct and operate (see Section 2.3.1).

Definitions:

Purpose and Need: Yes = Meets stated purpose and need; No = Does not meet stated purpose and need; and U = Uncertain if meets stated purpose and need

Siting Criteria: Yes = Meets project siting criteria; No = Does not meet project siting criteria; and U = Uncertain if meets project siting criteria

Recommended Action: A = Alternative retained for detailed analysis in EIS; X = Alternative removed from consideration in EIS

¹The determination of whether the Proposed Action and alternatives are protective of Indiana bat is the primary subject of this EIS (see Chapters 5 and 6).

² Applicant asserts that it is not practicable to fully develop a commercially viable alternate location. As part of the OPSB Application process, Buckeye filed a Motion for Waiver for the Site Alternative Analysis requirements of the OPSB regulations. This motion included a description of why analysis of alternate sites for this type of project is not feasible (Exhibit Y of the April 2009 OPSB Application). This motion was granted. Further, the OPSB application contains a description of the site selection process and further explains why it would not be feasible to conduct Site Selection Analysis for multiple sites (section 4906-13-03 of the April 2009 OPSB Application).

2.3 Alternatives Considered but Eliminated from Detailed Study

Seven alternatives were identified during preparation of this DEIS including some derived from comments received during the federal and state scoping processes. Some alternatives were eliminated from further analysis because they did not meet the stated goals or objectives of the USFWS or Buckeye Wind. Other alternatives were eliminated because they lacked practicality or feasibility. The following three alternatives were considered to be potentially reasonable but were eventually eliminated from detailed study.

2.3.1 ITP of a Shorter Duration

This alternative would involve an ITP of a shorter duration than the life of the Project (i.e., less than 30 years). While the USFWS considered this alternative, the Applicant determined that Project funding would be severely hampered by an ITP term that is shorter than the operational life of the Project. Wind project financiers can only recoup investments if a project is operating and generating energy over the operational life of the project (see discussion in HCP Section 6.6.2). Potential funding parties would be faced with significant uncertainty about the operational status and legal liability of the Project beyond the ITP term, creating a highly uncertain investment environment. Given the significant operation implications of the HCP and the legal liabilities of non-compliance with the ESA, the potential to have the ITP expire in the middle of the Project life creates very difficult uncertainties for investors. Therefore financing could be extremely difficult to obtain.

2.3.2 Reduced Number of Turbines

This alternative would reduce the number of turbines being constructed for the Project. This alternative was eliminated from consideration because, while reducing the number of turbines may reduce the likelihood of Indiana bat take, it would not eliminate the possibility that Indiana bats would be taken. The presence of even one turbine still poses some level of risk to Indiana bats and as such, reducing the number of turbines would decrease the capacity for wind power development without providing a sufficient level of associated environmental benefits. In addition, this alternative would generate less than 250 MW, and would therefore contribute less to meeting the requirements of the Ohio AEPS.

2.3.3 Alternate Location in Ohio

This alternative would construct the same facility in another area of Ohio. This alternative was eliminated from consideration in this DEIS because the Applicant asserts that it is not practical or financially feasible to fully develop a commercially viable alternate location (see footnote to Table 2.2-1). The process for assessing the feasibility of a second (alternate) location would essentially double the effort and financial expenditure required to develop a single Project (study two but only develop one) and involve years of additional study. Further, moving the facility would still present a risk (could be greater or lower risk) to Indiana bats. The range of the Indiana bat includes all of Ohio; therefore, moving the facility to another location in Ohio would not necessarily reduce the likelihood that Indiana bats would be affected.

2.4 Public and Agency Involvement

2.4.1 Public and Agency Involvement During DEIS Development

Public scoping for the DEIS was first initiated in the form of an NOI to conduct a 30-day scoping period for a NEPA decision on the proposed HCP and ITP and request for comments, published in the Federal Register on January 29, 2010 (75 FR 4840-4842). Formal scoping began for the NEPA analysis on May 26, 2010 when the NOI to prepare a DEIS was published in the Federal Register (75 FR 29575-29577). The USFWS also conducted outreach by press releases and public notification to inform interested parties or those potentially affected by the Proposed Action and to request comments on the scope of the NEPA analysis. Comments resulted in the identification of a number of issues related to the Project and the associated HCP. A total of 14 written or verbal comments were submitted during both scoping comment periods identifying issues and concerns about the Proposed Action and the preparation of the DEIS. Comments were received via phone, voicemail, electronic mail, and hardcopy mail and are indexed and summarized in Appendix C. These comments were carefully reviewed and categorized into the issues that informed the analysis for the DEIS, as described in Sections 2.1 and 2.2.

During the DEIS development, USFWS and the Applicant consulted with the Ohio Historic Preservation Office (OHPO) and tribal consultation was initiated in conjunction with obligations to fulfill requirements under NEPA, Section 106 of the NHPA, and AIRFA (see Section 1.7 for a summary of these statutes and their regulations). All organizations identified as potential consulting parties under these cultural statutes and regulations were contacted by letter, and follow-up phone calls, emails, and personal meetings, as necessary, will be conducted in order to provide them with information about the proposed Project and to seek additional input regarding the identification and evaluation of archaeological and historic resources. This consultation process is ongoing.

Among the federally designated tribes consulted are the Absentee-Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe of Oklahoma, the Miami Tribe of Oklahoma, the Ottawa Tribe of Oklahoma, and the Shawnee Tribe. These tribes were invited to comment and participate in accordance with Section 101(d)(6)(B) of the NHPA and 36 C.F.R. Part 800.2 (c)(2), respectively. At the time of this DEIS, only the Eastern Shawnee Tribe of Oklahoma indicated an interest in the Project and consultation with this Tribe is ongoing.

In addition to federal tribal consultation, the state-recognized Piqua Shawnee Tribe submitted a letter in January 2010 to demonstrate interest in this Project and USFWS formally acknowledged their interest in the Project via letter in August 2010. The Applicant met with Tribal representatives in August 2010 to discuss the Project. In a press release dated September 7, 2010, an elder of the Piqua Shawnee Tribe expressed support for the 52-turbine Project presented in the OPSB application, and stated that the Project poses no threat to tribal resources (Parks, 2010). USFWS will continue consultation with this tribe to fulfill requirements under AIRFA.

This DEIS will be published and circulated for public review in accordance with NEPA requirements set forth in 40 C.F.R. 1500-1508; 42 U.S.C. §4332(2)(C). Public comments will be accepted during a 90-day period following publication of the Federal Register Notice of Availability. At least one public information meeting will take place during the DEIS comment period. Comments received will be taken into account in assessing Project impacts and potential

mitigation. Following the end of the comment period, responses to substantive comments will be prepared and a Final EIS will be issued. Following issuance of the Final EIS, the USFWS will publish the ROD documenting its decision on whether to issue the ITP no earlier than 30 days after the Final EIS is published. The USFWS does not have a formal administrative appeal procedure for NEPA decisions. Judicial review of a USFWS NEPA decision can be accomplished in Federal court under the Administrative Procedure Act (5 U.S.C. §500 *et seq.*).

2.4.2 Public and Agency Involvement During Project Development and the OPSB Process

During the Project planning phase and the OPSB application process, Buckeye Wind consulted with state and federal agencies to identify available information on sensitive resources, including water, wetlands, wildlife, and cultural resources. Agencies consulted included USFWS, USACE, FAA, ODNR Division of Wildlife, OHPO, Ohio Department of Transportation (ODOT), Ohio Environmental Protection Agency (OEPA), Ohio Department of Agriculture (ODA), Ohio Department of Development (ODOD), and Ohio Department of Health (ODOH) to obtain guidance on pre-construction surveys, site assessments, and OPSB process requirements.

Prior to filing the OPSB application, Buckeye Wind was required to hold a public informational meeting to advise potentially affected persons of the proposed project. Public input and concerns were gathered to aid in preparation of the OPSB application. Once the application had been submitted and deemed complete, it then was sent to local public officials and made available in area libraries for public viewing; legal notices also were published in area newspapers. At that time, interested parties had the opportunity to be recognized as interveners in the case.

Buckeye Wind held a public informational meeting on June 10, 2008. On April 24, 2009, Buckeye Wind filed its application for a certificate of environmental compatibility and public need with the OPSB. A public hearing was held on October 27, 2009, and evidentiary hearings began October 28, 2009. The OPSB Certificate was issued on March 22, 2010. Various interveners to the process filed applications for rehearing on April 27 and 29, 2010. The applications for rehearing by the interveners were denied on July 15, 2010. A local citizens group appealed to the Ohio Supreme Court, but the Court upheld the issuance of the certificate on March 6, 2012 (*In re Application of Buckeye Wind, L.L.C.*, Slip Opinion No. 2012-Ohio-878).

In addition, information has been shared through several organized activities and Buckeye Wind's active engagement in the community: participation in the Champaign County Wind Turbine Study Group (WTSG); participation in bus tours of operating wind energy facilities; official Board of Trustee and Planning Board meetings; presentations to various schools, churches, and clubs; information booths at the County fair; and through the Project website. In addition to these activities, public comments were received in response to Buckeye Wind's completed application to the OPSB.

The Project's record of public interaction is available through the PUCO Docketing Information System (<http://dis.puc.state.oh.us/CaseRecord.aspx?Caseno=08-0666&link=DI>).

Champaign Wind LLC, a separate EverPower Wind Holdings, Inc. subsidiary, has initiated the OPSB application procedure for the Buckeye II Wind Project, consisting of approximately 56 turbines (no more than 100 total turbines will be constructed for the Buckeye Wind and Buckeye

II Wind projects combined). The Buckeye II Wind Project will be transferred to Buckeye Wind prior to construction. A public information meeting for Champaign Wind LLC was held on January 24, 2012. Champaign Wind LLC's record of public interaction is available through the PUCO Docketing Information System (<http://dis.puc.state.oh.us/CaseRecord.aspx?CaseNo=12-0160-EL-BGN>).