

BEECH RIDGE ENERGY WIND PROJECT  
Habitat Conservation Plan  
FINAL ENVIRONMENTAL IMPACT STATEMENT

Appendix H: Scoping Report and Scoping Notifications

# BEECH RIDGE ENERGY WIND PROJECT



## HABITAT CONSERVATION PLAN – INCIDENTAL TAKE PERMIT – DRAFT ENVIRONMENTAL IMPACT STATEMENT

### SCOPING REPORT

30 September 2010

**Prepared By: Stantec Consulting Services Inc.**

11687 Lebanon Road  
Cincinnati, OH 45241-2012



# BEECH RIDGE ENERGY WIND PROJECT – DEIS SCOPING REPORT

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## BEECH RIDGE ENERGY WIND PROJECT – DEIS SCOPING REPORT

### 1.0 INTRODUCTION

The U.S. Department of the Interior, Fish and Wildlife Service (the Service) is preparing an Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) to evaluate the environmental impacts associated with a Habitat Conservation Plan (HCP) and the issuance of an associated Incidental Take Permit (ITP). The applicant, Beech Ridge Energy, LLC (BRE), is developing the HCP and ITP application to comply with the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*). The HCP will address construction, operation, maintenance, and decommissioning activities associated with Phase I and Phase II of the Beech Ridge Wind Energy Project (the Project). Section 10(a)(1)(B) of the ESA authorizes the Service to issue ITPs to non-Federal land owners for the take of endangered and threatened species. Stantec Consulting Services Inc. (Stantec) is acting as third-party contractor to assist the Service in the preparation of an EIS for the Project to comply with NEPA.

Phase I of the Project includes 67-turbines already constructed and currently operating according to the stipulation in the January 26, 2010 court order and settlement agreement described in more detail below. BRE will request approval from the Service to authorize take of Indiana bat (*Myotis sodalis*) and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) associated with operation of these 67 turbines in accordance with the HCP and any terms and conditions specified in the ITP.

Phase II of the Project includes 33-turbines that would be constructed upon approval of the HCP and receipt of the ITP. The proposed federal action would authorize take of Indiana and Virginia big-eared bats associated with the construction and operation of up to 33 additional turbines in accordance with the HCP and any terms and conditions specified in the ITP.

As part of the NEPA EIS process, the Service conducted a public scoping meeting, and consulted with various Federal and state agencies. The scoping meeting and consultations with the general public, government agencies, and non-governmental organizations (NGOs) helped the Service to identify issues to be addressed in the EIS, as well as to develop a reasonable range of alternatives to be analyzed in the EIS. This report documents the scoping process and summarized the comments received. This report includes the following:

- Background information on the regulatory framework relative to the issuance of an ITP to BRE;
- Definition, and Purpose and Need for the Proposed Agency Action;
- Description of the proposed alternatives, including the no-action alternative;
- Summary of the scoping process and comments received; and,
- Summary of impact areas and issues to be addressed in the EIS.

### 2.0 BACKGROUND

BRE, a wholly owned subsidiary of Invenergy Wind, LLC, owns and operates the Project. The Project is located in Greenbrier and Nicholas counties, West Virginia (Figure 2.1), approximately five miles (8 km) northwest of the town of Trout, approximately seven miles (11 km) north-northwest of Williamsburg, and approximately nine miles (14.5 km) northeast of downtown Rupert, West Virginia.

The Project consists of several primary components, including wind turbines, access roads, transmission and communication equipment, storage areas, and control facilities. Construction and

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operation of 100 turbines on the Project site have been divided into two distinct Phases described above.

The Project is located on a 63,000-acre tract owned by MeadWestvaco. BRE will lease approximately 6,860 acres and additional road rights-of-way from this landowner. Of these 6,860 acres, a total of 491 acres has been or will be temporarily or permanently disturbed for construction and operation of the entire project (both phases, including the transmission line). Only a small portion of the Project area will host wind farm facilities. It is anticipated that the area of direct (life of project) land use for the 100 turbines, access roads, substation and Operation and Maintenance (O&M) facility will be approximately 59 acres. A total of 432 acres that have been or will be temporarily disturbed by construction activities will undergo reclamation. BRE has acquired the necessary land rights to construct and operate the Project and its associated facilities from MeadWestvaco.

In August 2006, the West Virginia Public Service Commission (WVPSC) granted BRE a siting certificate to construct up to 124 1.5-megawatt (MW) turbines with 186 MW of nameplate generating capacity. BRE began project construction on April 15, 2009.

On June 10, 2009, Animal Welfare Institute (AWI), Mountain Communities for Responsible Energy (MCRE), and David G. Cowan brought an action seeking declaratory and injunctive relief against BRE and Invenergy LLC alleging the Project would “take” endangered Indiana bats in violation of ESA.

The Court held a trial on October 21-23 and 29, 2009 (U.S. District Court, District of Maryland, Case No. RWT 09cv1519, Animal Welfare Institute, et al, plaintiffs v. Beech Ridge Energy LLC, et al, defendants). At the time of the trial, foundations for 67 turbines had been poured, turbine deliveries had commenced, and transmission lines were being strung in agreed upon areas.

In December 2009, the District Court ruled that BRE’s construction and operation of 124 wind turbines (40 in construction and 84 planned by the end of 2010) would violate Section 9 of the ESA unless and until Defendants obtain an ITP. The Court enjoined Defendants from building additional turbines beyond the 40 already under construction and restricted turbine operation to the bat hibernation season (November 15 – March 31) until such time as BRE obtains an ITP.

The Court also invited the parties to confer on whether they could agree on terms for further turbine operation while Defendants pursue an ITP. Under the terms of a settlement agreement reached between BRE and the Plaintiffs, the District Court stipulated on January 26, 2010 that BRE will not build 24 of the original 124 turbines that are closest to known bat hibernacula; limiting the Project to 100 turbines totaling up to 186 MW of generating capacity. While the HCP is under development, the two parties agreed that BRE may construct an additional 27 turbines in Phase I and operate all 67 turbines 24 hours per day from November 16 through March 31 and from one-quarter hour after sunrise to one-half hour before sunset (daylight hours) from April 1 through November 15). Phase I turbines would continue to operate on this schedule and Phase II turbines would not be constructed unless and until the Service issues an ITP. Any additional land clearing for construction of the remaining Phase I turbines must occur during the Indiana bat hibernation period unless otherwise approved by the Service.

On September 28, 2010, BRE announced the completion of Phase I; the 67 turbines currently provide up to 100.5 MW of wind-generated electricity. Phase II of the Project, the remaining 33 turbines yet to be constructed, is located in an expansion area currently under review by the

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WVPSC and a host of other agencies to ensure compliance with the existing certificates, regulations, and permits. Consistent with the court order and settlement agreement, BRE intends to pursue an ITP.

### 3.0 PURPOSE AND NEED FOR AGENCY ACTION

This environmental Impact Statement (DEIS) evaluates an application for an Incidental Take Permit (ITP) submitted by Beech Ridge Energy LLC (BRE). The ITP application was submitted pursuant to §10(a)(1)(b) of the Endangered Species Act (ESA) (87 Stat. 844), 1973 as amended (16 U.S.C. 1531 et. seq.) for incidental take of federally listed species which may result from construction, operation, maintenance, and decommissioning of the BRE Generation Facility. BRE has submitted a Habitat Conservation Plan (HCP) as part of its permit application package.

The purposes for which the federal action is being considered and this DEIS is being prepared are to:

- Respond to an application from BRE for an ITP for the endangered Indiana bat and Virginia big-eared bat related to activities that have potential to result in take, pursuant to the provisions of section 10(a)(1)(b) of the ESA of 1973, as amended, and its implementing regulations (50 C.F.R. part 17) and policies.
- Protect, conserve, and enhance the Indiana bat and Virginia big-eared bat and their habitat in the project area for the continuing benefit of the people of the United States.
- Provide a means and take steps to conserve the ecosystems depended on by the Indiana bat and Virginia big-eared bat within the context of this project.
- Ensure the long-term survival of the Indiana bat and Virginia big-eared bat through protection and management of the species and their habitat within the context of this project.
- Ensure compliance with the ESA, National Environmental Policy Act, and other applicable Federal laws and regulations.

The need for the federal action is based on the likelihood that activities proposed by BRE on property they lease could result in take of the Indiana bat and Virginia big-eared bat. Commercial wind projects have been shown to cause high numbers of bat fatalities, particularly during the fall migration season. Impacts to Indiana bats and Virginia big-eared bats need to be avoided and minimized to the maximum extent practicable. Additionally, any unavoidable take of Indiana bats and Virginia big-eared needs to be mitigated. Furthermore, summer roost habitat of Indiana bats needs to be protected to ensure successful bat productivity.

The mechanisms behind bat fatalities at wind projects are not fully understood. Post-construction monitoring is necessary to increase the knowledge base on bat and wind project interactions, particularly within the range of Indiana bats. Conservation measures implemented to protect Indiana and Virginia big-eared bats may need to be modified based on the results of post-construction monitoring. This is facilitated through an Adaptive Management Plan.

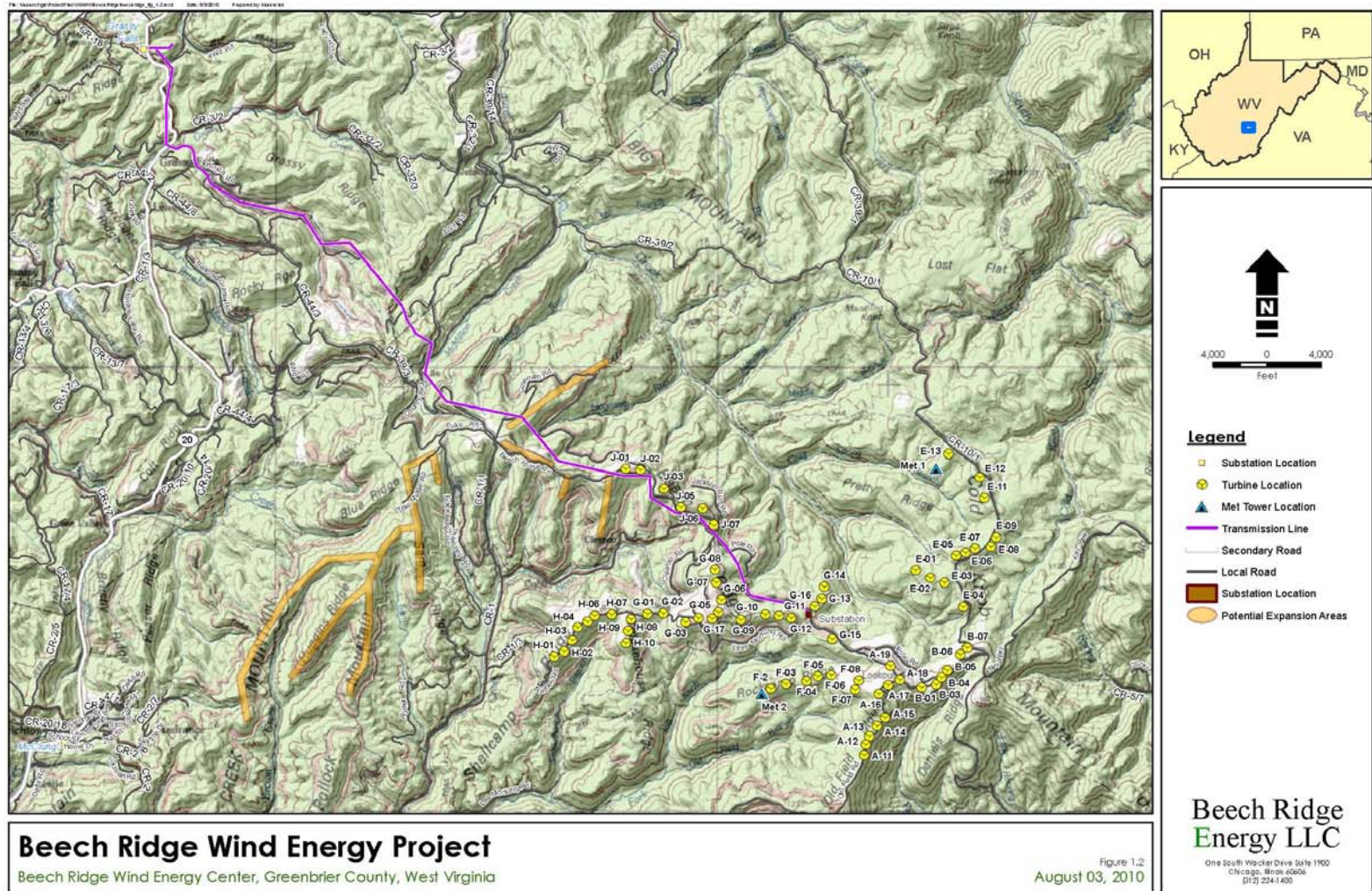
Implementation of renewable energy would help to reduce emissions of greenhouse gases and other air pollutants pursuant to the Energy Policy Act of 2005 (P.L. 109-58), as amended, and meet the State of West Virginia's Alternative Energy Portfolio Standard (AEPS). West Virginia's Alternative Renewable Energy Portfolio Act (House Bill 103) was approved in June 2009 and mandates that electric utilities obtain 25% of their electricity from alternative or renewable energy by 2025. Eligible renewable technologies include wind power.

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Wind energy projects need to be sited where adequate wind is available to ensure economic viability. Wind projects also need to produce a certain amount of power to be economically viable. Adequate power production is provided via an adequate number of appropriately sized turbines operating at a minimum length of time.

## BEECH RIDGE ENERGY WIND FARM – DEIS SCOPING REPORT

Figure 2.1. Location of the Beech Ridge Wind Energy Project, West Virginia.



## **BEECH RIDGE ENERGY WIND FARM – DEIS SCOPING REPORT**

### **3.1 Decisions to be Made**

The Service must decide whether to issue or deny the proposed ITP. Section 10(a)(2) of the ESA requires the following criteria be met before the Service may issue an ITP:

- The taking will be incidental;
- The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking;
- The applicant will ensure that adequate funding for the HCP and procedures to deal with unforeseen circumstances will be provided;
- The taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild;
- The applicant will ensure that other measures that the Service may require as being necessary or appropriate will be provided; and
- The Service has received such other assurances as may be required that the HCP will be implemented.

If the permit issuance criteria contained in Section 10(a)(2)(b) of the ESA are not satisfied, the Service is required to deny the permit. Alternatively, if the permit issuance criteria are satisfied, the Service is required to issue the permit to the applicant. The Service may decide to issue the permit conditioned upon implementation of the HCP as submitted by the applicant, or to issue the permit conditioned upon implementation of the HCP as submitted plus additional measures specified by the Service.

### **3.2 Legal Authorities and Policy Direction**

Section 9 of the ESA (87 Stat. 884, as amended; 16 U.S.C. 1531 et. seq.) prohibits the take of federally listed species unless authorized under the provisions of Section 7, Section 10(a), or Section 4(d) of the ESA. Section 3 of the ESA defines take as “to harass, harm, pursue, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.” Federal regulation defines the terms “harass” and “harm” as follows. Harass means, “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioural patterns which include, but are not limited to, breeding, feeding, or sheltering” (50 C.F.R. 17.3(c)). Harm means “an act which actually kills or injures wildlife and may include, significant habitat modifications or degradation where it actually kills or injures wildlife by significantly impairing essential behavioural patterns, including breeding, feeding, or sheltering” (50 C.F.R. 17.3(c)). Section 10(a)(1)(B) of the ESA defines “incidental take” as take that is “incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. A Section 10 permit constitutes an exception to the taking prohibition of Section 9 and is considered a federal action. As with any federal activity, the issuance of a Section 10 permit requires that intra-agency consultation under Section 7(a)(2) occur prior to finalization of the Section 10 permit process. Section 7 consultations insure that the agency action is not likely to jeopardize the continued existence of any federally listed species or result in destructive or adverse modification of designated critical habitat.

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### 4.0 SUMMARY OF SCOPING PROCESS

This section summarizes the scoping process the Service conducted for the draft EIS. Through the scoping process, the Service solicited input from other federal, state, and local agencies, as well as from other interested parties (e.g., general public, NGOs) regarding the scope of the EIS and the range of reasonable alternatives.

#### 4.1 Public and Agency Outreach and Notification

The Service used several media to notify the public and potentially interested parties to provide them with the opportunity to participate in the scoping process.

##### 4.1.1 Federal Register – Notice of Intent

The Service's formal scoping process began on 22 July 2010, with the publication in the Federal Register of a *Notice of Intent for preparation of an Environmental Impact Statement for Issuance of an Incidental Take Permit and Associated Habitat Conservation Plan for the Beech Ridge Wind Energy Project, Greenbrier and Nicholas Counties, WV* (Federal Register, Vol. 75, No. 140 [July 22, 2010/Notices]). Appendix A contains a copy of the Notice of Intent (NOI).

The notice provided information about:

- The Project and the EIS;
- Species proposed for inclusion in the BRE HCP; and,
- The specific location, date, and time of the public scoping meeting; how comments could be mailed, faxed, or e-mailed to the Service until 23 August 2010; and contact information for the key Service representative to request further information from (their name, address, and telephone number).

The Service received requests from 15 interested parties to extend the comment period. An additional Federal Register Notice was published on 27 August 2010 to notify the public of the Service's intent to reopen and extend the scoping comment period until 23 September 2010 (*Preparation of an Environmental Impact Statement for Issuance of an Incidental Take Permit Associated With a Habitat Conservation Plan for the Beech Ridge Wind Energy Project, Greenbrier and Nicholas Counties, West Virginia; Re-opening and Extension of Comment Period*; Federal Register, Vol. 75, No. 166 [August 27, 2010/Notices]).

Persons needing reasonable accommodations in order to attend and participate in the scoping meetings were asked to contact the Service a minimum of one week in advance of the meeting such that appropriate arrangements could be made. The Service received no requests for reasonable accommodations.

##### 4.1.2 Press Releases for Scoping and Public Meeting

Press releases announcing the scoping periods and open house/public scoping meeting were issued to multiple media outlets one to two weeks prior to the publication of the Federal Register notices and the public scoping meeting

- *Charleston Gazette* (Charleston, WV);
- *Charleston Daily Mail* (published in Charleston, WV and distributed statewide)
- *West Virginia Daily News* (Lewisburg, WV);
- *Nicholas County Chronicle* (Summersville, WV);
- *Beckley Register-Herald* (Beckley, WV);
- *Bluefield Daily Telegraph* (Bluefield, WV);

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- Exponent Telegram (Clarksburg, WV);
- The Inter-Mountain (Elkins, WV);
- Times West Virginia
- Herald Dispatch
- West Virginia Daily News (online newspaper)
- The Dominion Post (Morgantown)
- Parkersburg News and Sentinel (Parkersburg, WV);
- Point Pleasant Register (Point Pleasant, WV);
- West Virginia Public Broadcasting (Charleston, WV)
- Associated Press (Charleston, WV)

The announcements were picked up by the Associated Press, National Public Radio, multiple newspapers, business groups, and several NGO's which distributed the announcements throughout the region in press media, television news media, and via the internet. A reporter from local television channel 59 (WVNS-TV) attended and filmed portions of the public meeting, including presentations, and the comment, question and answer session.

Appendix B contains a copy of the Notices of Intent and press releases for the original and extended commenting periods.

### 4.1.3 Known Interested Party Scoping Letter

On 26 July 2010, a public scoping/*Dear Interested Party* letter was sent to 32 known interested parties (see Appendix C for the letter and list of interested parties). The letter provided information on the project and the EIS, and included the date, time, and location of the scoping meeting with copies of the Federal Register Notice. On August 27, 2010, an additional *Dear Interested Party* letter went out to the same parties to notify them of the extended scoping comment period.

### 4.1.4 Website

To support distribution of the Notice of Intent (NOI) and notice of the public meeting, these documents, and meeting information were posted on the Service's – Region 5 (West Virginia Field Office) website at the following link:

[http://www.fws.gov/westvirginiafieldoffice/beeceh\\_ridge\\_wind\\_power.html](http://www.fws.gov/westvirginiafieldoffice/beeceh_ridge_wind_power.html)

This site is also used to facilitate public knowledge and participation through the dissemination of information regarding the Project's status, history, and planned future activities.

## 4.2 Public Scoping Meeting – 9 August 2010

The Service conducted an "Open House" style public scoping meeting to solicit input on the scope of the EIS associated with the issuance of an ITP to BRE and approval of the associated HCP. The meeting took place at the Community Center in Rupert, WV (the town closest to the project), from 6:00 to 9:00 p.m. (local time) on 9 August 2010. The Service, Invenergy, and Stantec all had personnel on hand to facilitate the meeting.

### 4.2.1 Scoping Meeting Facilitation

At the public scoping meeting, there were four information stations arranged around the periphery of the room. Tables and easels at each station were used to display project information. Sixteen posters with Project information were set up throughout the Center (in a manner to facilitate movement through each station). Information on the posters included: Project definitions, detailed

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Project map, information on the Indiana and Virginia big-eared bats, benefits of wind energy, Project history, Phase I and Phase II descriptions, information on the NEPA process (e.g., HCP, ITP, EIS), tentative Project schedule, information on the scoping process, and how to provide comments.

Each station was attended by one or two project team members (see below). Attendees were given the opportunity to visit and review information from each station prior to a presentation on the Project. Light refreshments were also available at the scoping meeting.

### **4.2.1.1 Scoping Information Stations**

Upon entering the Community Center, attendees were met at a Welcome and Registration desk. The information provided at each station is summarized below:

#### *4.2.1.1.1 Station One – Welcome and Registration*

Stantec biologist Wes Cunningham welcomed each attendee as they entered the Community Center. Each attendee was asked to register (providing their name, mailing address, email address) and asked whether they would like to be added to the mailing list. Each attendee was given a colored brochure explaining the permitting process and a copy of the Federal Register NOI. Attendees were then informed on how best to utilize meeting resources (e.g., stations, resources available, personnel on hand, comments, and presentation).

#### *4.2.1.1.2 Station Two – Beech Ridge Energy Project Information – Invenergy*

Invenergy's Ms. Karyn Coppinger (Senior Manager of Development), Mr. Erik Duncan (Development Manager), and Mr. Dave Groberg (Vice President of Development) staffed this station and provided information on the Project's history, current status, future plans, and BRE's HCP and ITP application.

#### *4.2.1.1.3 Station Three – HCP, ITP, and NEPA Processes – USFWS*

Ms. Laura Hill, Assistant Field Supervisor for the Service's West Virginia Field Office, provided information and answered attendee's questions at this station regarding Service procedures as they pertained to the NEPA process.

#### *4.2.1.1.4 Station Four – Scoping Issues and Comment Solicitation – Stantec*

Ms. Joanna Morsicato (Senior Planning and Environmental Manager), Mr. Jeff Schwierjohann (Project Manager/Senior Environmental Scientist), and Mr. Steve Hall (Senior Associate) of Stantec staffed this station. Attendees were given information on the nature of comments being solicited by the Service and encouraged to complete and return the provided comment form; but were also presented the options of mailing, e-mailing, or faxing comments to the Service.

### **4.2.1.2 Scoping Presentation**

A 60-minute slide presentation was given to approximately 42 attendees. Ms. Hill began the presentation by introducing the interdisciplinary team working on the NEPA aspect of the project (i.e., Invenergy and Stantec personnel identified above), delineating the meeting's agenda, providing background on information on the Project, and then discussing potential issues the Project may have with the Indiana and Virginia big-eared bats. Mr. Erik Duncan then discussed the Project's history, current status, and future plans (i.e., Phase II) in more detail. Mr. Steve Hall then presented information on Stantec's role in the process by describing what was necessary for the Project to successfully navigate the NEPA process (e.g., scoping, HCP, ITP, EIS). Ms. Hill then

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finished the presentation by defining the Service's mission and goals for this project and how the public can best support the scoping process by providing comments.

The meeting was then opened up to the attendees for asking questions and making comments. Interdisciplinary team members not directly involved with the questions or comments took notes to ensure all were recorded to the best of their abilities. However, attendees were reminded on several occasions that verbal comments may not be adequately addressed by the process as a stenographer was not present and that written comments were necessary.

All scoping meeting materials can be found in Appendix D.

### **4.3 Agency Communication**

#### **4.3.1 Federal Agency Communication**

Written letters soliciting comments were sent to the following Federal agencies and Office holders:

- U.S. Army Corps of Engineers (Huntington District, Regulatory Branch);
- Federal Aviation Administration (Southern Regional Office);
- U.S. Department of Energy (Office of NEPA Policy and Compliance [GC-54]);
- USDA Forest Service, Monongahela National Forest;
- U.S. Congressman Nick Rahall;
- U.S. Congressman Alan Mollohan; and
- U.S. Senator Jay Rockefeller.

#### **4.3.2 State Agency Communication**

Written letters soliciting comments were sent to the following State agencies and Office holders:

- West Virginia Division of Natural Resources;
- West Virginia Department of Environmental Protection;
- West Virginia Public Service Commission;
- West Virginia Division of Culture and History;
- West Virginia Governor Joe Manchin III;
- West Virginia Senator William Laird IV;
- West Virginia Senator Randy White;
- West Virginia Congressman Thomas Campbell;
- West Virginia Congressman Ray Canterbury; and
- West Virginia Congressman Sam Argento.

#### **4.3.3 Local Government Organizations**

Written letters soliciting comments were sent to the following local governments and Office holders:

- Nicholas County Commission;
- Greenbrier County Commission;
- Mayor, Town of Rupert;
- Mayor, Town of Rainelle;
- Mayor, Town of Richwood; and
- Mayor, Town of Renick.

#### **4.3.4 Non-Governmental Organization/Private Sector/Academia**

Written letters soliciting comments were sent to the following NGOs, citizens, and academicians:

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- Friends of Blackwater;
- Allegheny Front Alliance;
- American Bird Conservancy;
- Brooks Bird Club;
- Sierra Club;
- Bill Eubanks (Plaintiff Counsel);
- Mark Kauffelt (Concerned Citizen; Potential Counsel for Interested Party);
- Larry Thomas (Concerned Citizen); and
- Dr. Ross Conover (Glenville College, WV)
- Dr. Paul Friesma (Northwestern University, IL)

### 4.3.5 Technical Advisory Committee

As a part of its siting certificate, BRE is also required to consult with a Technical Advisory Committee (TAC) whose membership shall be open to the WVPSC, West Virginia Department of Natural Resources (WVDNR), the Bat and Wind Energy Cooperative (BWECE), a state-wide environmental organization, a state-wide bird group, and a private or academic institution with experience in avian issues. The WVPSC siting certificate requires BRE to consult with the TAC regarding post-contraction monitoring and adaptive management studies to reduce bat and bird mortality. This organization was also included in the scoping outreach effort. It should be noted, the Service has opted to not participate on the TAC due to their independent regulatory oversight of the Project.

## 5.0 PUBLIC SCOPING RESULTS

Forty-two attendees registered at the public meeting. Various head counts during the meeting did not yield any higher numbers. Only three written comments were submitted at the meeting. However, most comment cards (100+) were taken by attendees upon departure.

Written comments were officially accepted through 23 September 2010. However, comments received later have been and will continue to be reviewed. All comments received up to the date of this report are included in this analysis. A total of 69 written comments were submitted. Some commenter's commented more than once, or provided supplemental information to support their earlier comments. As such, each individual commenter was only counted once, with the additional information being considered a part of the original comment. Most submissions contained comments on multiple issues.

In the analysis of comments provided on this project, it is important to restate the purpose for soliciting those comments. The Federal Register notice stated: *"We provide this notice to: (1) Describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected tribes, and the public of our intent to prepare an EIS; (3) announce the initiation of a 30-day public scoping period; and (4) obtain suggestions and information on the scope of issues and alternatives to be included in the EIS."* Scoping is not intended to be a polling process to gauge public opinion on support of a Project; again, it is conducted to *"... obtain suggestions and information on the scope of issues and alternatives to be included in the EIS."* As such, letters were not grouped by support for, or opposition to, the Project as many did not specifically state their position in this regard and only provided comments as per the Service's request. Comment tone and content often relayed the commenter's position, but such assumptions could not be made by the reviewers without introducing bias into the process. All comments received listed issues of concern (pro and con). The percentage of comments providing information on specific issues was

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used to assist in determining the importance and relevance of that specific issue, however, support or opposition to the overall Project did not influence its inclusion in this analysis.

Sixteen percent (16%) of all comments were from various NGO's and organizations (i.e., on official letterhead with signature of elected officials). Thirty-two percent (32%) of all comments were form letters containing the exact same verbiage. The fact that form letters were used did not benefit or detract from the individual commenter. They were assessed as individual comments. Their inclusion here merely demonstrates a specific, concerted effort by individuals to ensure various issues were considered. Some form letters included individual comments aside from the form letter. These were also reviewed and considered in the analysis. Between 10%-15% of all comments (depending on issue addressed) supplied or cited supporting documentation for issues they noted. The relevance or credibility of those documents is not analyzed in this report. However, issues addressed by the EIS will analyze all relevant and credible supporting documentation in its analysis. Between 7%-10% of all comments (depending on issue addressed) cited the past litigation associated with this Project. Issues addressed by the litigation of this Project will be addressed in the EIS as they pertain to the HCP, ITP, and EIS.

Based on the input received during the scoping process, the comments were categorized as follows (in descending order of percent commented):

- A) Environment Issues
  - a. Bats
  - b. Overall Environment (e.g., watersheds, habitats, aquatics)
  - c. Birds
  - d. Other flora and fauna
  - e. Alternatives & Cumulative Effects
  - f. Pre and post construction research (conducted by BRE or third-party), monitoring, and adaptive management
  - g. Research available to support inclusion into the EIS (again, relevance or credibility of this research is not analyzed for this report)
  - h. Climate (both local and global)
- B) Socioeconomic Issues
  - a. Human Health
  - b. Cultural (to include view-shed and public lands)
  - c. Economic Costs (to include taxes, jobs, overall costs)
  - d. Tourism
  - e. Property Values
  - f. Research available to support inclusion into the EIS (again, relevance or credibility of this research is not analyzed for this report)
- C) Energy Issues
  - a. Quality and Quantity (i.e., Clean, renewable)
  - b. Security (e.g., local availability, decreases foreign dependence)
  - c. Reliability

### 5.1 Environment Issues

#### 5.1.1 Bats

Eighty-four percent (84%) of comments received discussed bat issues, which was to be expected since the Federal Register Notice stated: "*Beech Ridge Energy LLC is preparing an HCP in support*

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of an application for a permit from the Service to incidentally take endangered Indiana bats (*Myotis sodalis*) and Virginia big-eared bats (*Corynorhinus townsendii virginianus*).” Primary issues included:

- Habitat for maternity colonies and hibernacula may or may not currently exist within the Project site;
- Detections of endangered bat species within the Project site;
- Credibility of surveys completed for bats on Project site;
- Use of Project site as a migratory pathway;
- Location of two known Indiana bat hibernacula within 12 and 9 miles of Project site;
- Data from other regional wind facilities indicating high kill rates;
- Disruption of essential biological behaviours due to habitat modification;
- Current understanding and knowledge of bat/wind turbine interactions;
- Current understanding and knowledge of bat populations, distributions, and migratory habits;
- This Project’s role in conducting research to supplement current understanding and knowledge of above issues; and
- Current ability to avoid, minimize, or mitigate for turbine associated bat mortality.

### 5.1.2 Overall Environment

Seventy-three percent (73%) of comments received discussed general, primarily non-specific issues related to the overall environment and/or general “watershed,” “habitat,” and/or “aquatic issues.” Primary issues included:

- Impacts associated with forest fragmentation;
- Impacts to springs and headwater streams, and cascading effects on watersheds;
- Impacts to caves;
- Impacts to unique high elevation habitats; and
- Impacts to wetlands within the Project site.
- Impacts to environment within the proclamation boundary of the Monongahela National Forest

### 5.1.3 Birds

Sixty-seven percent (67%) of comments received discussed bird issues. Primary issues included:

- Neotropical migrant and resident bird species currently utilizing the project site for breeding or migration;
- Credibility of surveys completed for birds on Project site;
- Data from other regional wind facilities indicating high kill rates;
- Current understanding and knowledge of bird/wind turbine interactions;
- Current understanding and knowledge of bird populations, distributions, and migratory habits;
- This Project’s role in conducting research to supplement current understanding and knowledge of above issues; and
- Current ability to avoid, minimize, or mitigate for turbine associated bird mortality.

### 5.1.4 Other flora and fauna

Sixty-four percent (64%) of comments received discussed issues relating to flora and fauna aside from bats and birds. Primary issues included:

- Current understanding and knowledge of other flora and fauna taxa within the Project site;

## **BEECH RIDGE ENERGY WIND PROJECT – DEIS SCOPING REPORT**

- Current understanding and knowledge of wind facility impacts on other flora and fauna taxa;
- Disruption of essential biological behaviours due to habitat modification; and
- Creation of habitat for other flora and fauna species.

### **5.1.5 Alternatives and Cumulative Effects**

Fifty-five percent (55%) of comments received discussed Alternatives and Cumulative Effects. Primary issues included:

- A complete acknowledgement and assessment of all viable alternatives;
- Project impacts on bats, birds, and habitats when viewed in conjunction with all other existing and planned wind projects in the eastern United States, and particularly in the Appalachian corridor;
- Cumulative impacts of non-wind energy projects (e.g., timber projects, strip mines, residential or commercial development, etc.) in the region; and
- The effects of White Nose Syndrome on bats and other pathogens (e.g., the effects of West Nile Virus on birds) in conjunction with aforementioned impacts.

### **5.1.6 Pre- and Post-construction Research, Monitoring, and Adaptive Management**

Forty-eight percent (48%) of comments received discussed pre- and post-construction research (conducted by BRE or third-party), monitoring, and adaptive management. Primary issues addressed by received comments included:

- Quantity and quality of preconstruction surveys;
- Quantity and quality of post construction surveys;
- Quantity and quality of monitoring programs; and
- Quality of adaptive management plan.

### **5.1.7 Research Available to Support Inclusion into the EIS**

Depending on the issue discussed, up to 64% of commenters believed there was research available to support analysis of particular environmental issues they had identified or inclusion in the EIS. However, only 14% provided and/or cited any specific research.

### **5.1.8 Climate (both local and global)**

Ten (10%) of comments received discussed climate issues. Primary issues included:

- Impact of facility on global warming (pro and con); and
- Impact of facility on local climate and cascading effects on wind, humidity, and soils.
- Impact of climate change on timing of bird and bat migration seasons and how that may influence turbine operational measures to reduce bird and bat mortality.

## **5.2 Socio-Economic Issues**

### **5.2.1 Human Health**

Forty-seven percent (47%) of comments received discussed human health issues. Primary issues included:

- Disease spread due to decrease in bat populations and resulting increase in mosquito populations;
- Noise, light, and flicker impacts to surrounding residents;
- Blade and ice throws associated with turbines (i.e., safe setbacks); and
- Quantity and quality of recreational activities.

## **BEECH RIDGE ENERGY WIND PROJECT – DEIS SCOPING REPORT**

### **5.2.2 Cultural**

Forty-three percent (43%) of comments received discussed cultural issues, including issues related to the view-shed and surrounding public lands. Primary issues included:

- Impacts to communal resources of nature, wildlife, scenic views, quality of life and human health;
- The role of Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may among other things, preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice; and
- Current understanding of “cultural attachment\*\*” within the surrounding area of the project.

\*Cultural Attachment - the cumulative effect over time of a collection of traditions, attitudes, practices, and stories that tie a person to the land, to physical place, and to kinship patterns.

### **5.2.3 Economic Costs**

Forty percent (40%) of comments received discussed economic costs associated with the project. Primary issues included:

- Creation of construction jobs initially, but limited long-term employment;
- Contribution to tax base;
- True cost of wind generated electricity vs. electricity produced through traditional sources;
- Assessment of grants, subsidies, and tax breaks allotted to this project and impact to consumers; and
- Assessment of costs to tie into the electric grid vs. production provided by the facility.

### **5.2.4 Tourism**

Fourteen percent (14%) of comments received discussed tourism issues. The primary issue was:

- Positive and negative effects of the facility on tourism.

### **5.2.5 Property Values**

Ten percent (10%) of comments received discussed property value issues. The primary issue was:

- Negative effects of facility on property values.

### **5.2.6 Research Available to Support Inclusion into the EIS**

Depending on the issue discussed, up to 10% of commenters on socioeconomic issues believed there was research available to support analysis of a particular socioeconomic issue they had identified for inclusion in the EIS. Of those commenters, 14% provided and/or cited specific research.

## **5.3 Energy Issues**

### **5.3.1 Quality and Quantity of Wind Resources**

Thirty-two percent (32%) of comments received discussed the quality and quantity of wind resources. Primary issues included:

- Clean renewable energy source;
- Installed generation capacity vs. actual generation in the Mid-Atlantic Highlands; and
- Tracking of wind-generated electricity vs. electricity produced through traditional sources.

## **BEECH RIDGE ENERGY WIND PROJECT – DEIS SCOPING REPORT**

### **5.3.2 Reliability**

Thirteen percent (13%) of comments received described, sometimes in depth with documentation, the unreliability of wind energy. Primary issues included:

- Consistent lack of production by wind facilities during peak hours of demand;
- Intermittent, volatile, and unreliable output from wind facilities; and
- Ability of grid managers to efficiently manage grids with wind facility tie-ins.

### **5.3.3 Energy Independence**

Six percent (6%) of comments received discussed energy independence involving wind energy. Primary issues addressed by received comments included:

- Energy produced and utilized locally; and
- Decrease foreign energy dependency.

### **5.3.4 Research Available to Support Inclusion into the EIS**

Depending on the issue discussed, up to 12% of commenters believed there was research available to support analysis of particular energy issues they had identified for inclusion in the EIS. These commenters provided and/or cited specific research.

## **5.4 Other**

There was one request for the entire BRE project, including portions already built, to be reviewed under NEPA and another request for the EIS to be peer reviewed.

Although only three comments addressed this issue, it is important to note that Stantec's credibility to conduct a thorough examination of the data, issues, and research, and to compile into an unbiased, Service approved EIS was brought into question. Comments included:

- In examining the studies for AES New Creek, AES Laurel Mountain, Pinnacle Knob, Mountaineer Project, Dan's Mountain, and Liberty Gap, there are wide study variations between projects. Between and within projects, the Stantec studies offer conflicting study protocols, data, conclusions and recommendations. One commenter recommended the complete review of all wind project studies conducted by Stantec or Woodlot Alternatives;
- Stantec provided inadequate and misrepresentative bat data for the AES Laurel Mountain wind project and should not write the Beech Ridge EIS; and
- Stantec has prepared bat impact studies for past wind projects, the methodologies and conclusions for which have been highly questionable.

## **6.0 PRELIMINARY PROPOSED ALTERNATIVES**

Many commenters proposed specific alternatives. Based on comments received during the scoping period, several preliminary alternatives are currently being considered for inclusion in the EIS in addition to the No Action Alternative and the Proposed Action. All proposed alternative comments are listed under the following categories:

- Variations in the scope of covered activities;
  - Study all alternatives.
- Variations in curtailment and operation of wind turbines;
  - Curtail turbines during entire bat migration seasons.

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- Implement time of year restrictions in spring, summer, and fall during night time hours to minimize bat mortalities.
- Require operational restrictions similar to those imposed by Judge Titus.
- Use higher cut-in speeds, especially those 5 m/sec or higher.
- Issue a Federal executive order imposing an immediate 5-year moratorium on construction and operation of giant wind turbines.
- Variations in the location, amount, and type of conservation;
  - Turn the project site into a national wildlife refuge if it is so important for bats.
  - Enact legislation so that state agencies have full regulatory authority to mandate environmental studies, permits, and pre- and post-construction monitoring for wind power projects.
  - Require each state to adopt guidelines or regulations to assure the prevention or minimization of avian impacts from new wind turbine construction and operation.
- Variations in permit;
  - Issue the Incidental Take Permit as soon as possible and allow the project to operate at full capacity (no operational restrictions).
  - Issue a permit with a shorter duration than the life of the project.
  - Issue a permit for zero take. If the projects kills a threatened or endangered species, shut it down and dismantle it.
  - Deny the permit and fully terminate the project (i.e., a No Build Alternative that removes the 67 turbines already built and cancels future construction).
- Variations in monitoring the effectiveness of permit conditions;
  - Require a minimum of 3-years post-construction monitoring.
  - Require scientific studies (post-construction monitoring) for the life of the project. Include unannounced site inspections during monitoring.
  - Require effective mortality studies over multiple years with adaptive management to reduce bird and bat mortality.
  - Search at least 50% of operating turbines during post-construction monitoring for adequate sample sizes.
  - Search selected turbines at least every 4 days (except during fall migration when they should be searched at least every 2 days).
  - Plant areas immediately adjacent to the turbines in short grass, or cover with gravel, to improve searcher efficiency for wildlife mortality monitoring.
- Alternate locations;
  - Build the project in a different location.
  - Identify alternate turbine locations within the project's boundaries.
- Alternate forms of energy production;
  - Look at alternative types of energy production.
  - Save energy! Focus efforts to curb the over-indulgent use of electricity by Americans.
  - No energy production (more energy is not needed).

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- Additional research and conservation measures based on, and including additional on-site and off-site studies.
  - Protect important off-site bat habitat in perpetuity (or for the life of the project) through conservations easements or fee-title purchase.
  - Lease or purchase property near bat hibernacula, and plant potential roost trees to provide alternate habitat that reduces the potential for use of roost trees on the project site and nearer the turbines.
  - Fully reclaim disturbed areas to the same wildlife habitat functions that existed before disturbance.
  - Require that studies be conducted by qualified professionals without a vested interest in the outcome of the studies (not paid by the applicants).
  - Require additional bat studies: extensive on-site and off-site mist netting, acoustic monitoring, spring emergence studies, and additional cave searches offsite.
  - Employ bat deterrents.
  - Fund research to study how White Nose Syndrome, in combination with wind turbine mortalities, impacts bat population health, viability, dynamics, survival, and recovery potential.
  - Maintain and share data through formal agreements that that make the data available to qualified institutions, researchers, graduate students, and community members.

Analysis during the development of the EIS will determine which of these preliminary alternatives will be subject to detailed analysis and which, if any, may be dropped from further consideration in the EIS based on relevance to, or compatibility with, the Purpose of and Need for the Federal Action and/or the Proposed Action.

### 7.0 SUMMARY OF FUTURE ACTIONS

The Service will accept public input during development of the HCP and EIS. All written public comments will become part of the administrative record.

The next formal comment period will open when the Notice of Receipt of Application and Notice of Availability of the draft EIS and draft HCP is published. The Service and any formal cooperating agencies will issue press releases and circulate a notice of the draft EIS and draft HCP to interested parties. The draft documents will be available to the public on the Service's website, at local libraries, and by request from the Service. Availability of the draft EIS will be announced by publication of a notice in the Federal Register. Following the release of the drafts, there will be a minimum 60-day public comment period.

At the conclusion of this second public comment period, the Draft EIS and Draft HCP will be revised, and the Final EIS and Final HCP will be prepared. Availability of the Final EIS will be announced by publication of a notice in the Federal Register, at which time a 30-day waiting period will commence prior to the Agency action of issuing or denying the permit. Notification will also be sent to all persons who provided comments during any phase of the public comment process.

The Service will engage in necessary agency consultation and coordination regarding potential effects to resources during this process. The Service will also continue to review and respond to substantive comments provided to them. A Record of Decision is anticipated in 2011.

and adjust flood insurance claims under their own names based on an Arrangement with the Federal Insurance Administration (FIA) published at 44 CFR part 62, appendix A. The WYO insurers receive an expense allowance and remit the remaining premium to the Federal Government. The Federal Government also pays flood losses and pays loss adjustment expenses based on a fee schedule. In addition, under certain circumstances reimbursement for litigation costs, including court costs, attorney fees, judgments, and settlements, are paid by the FIA based on documentation submitted by the WYO insurers. The complete Arrangement is published in 44 CFR part 62, appendix A. Each year FEMA is required to publish in the **Federal Register** and make available to the Companies the terms for subscription or re-subscription to the Arrangement.

Though not substantive, there has been a recent change to the marketing guidelines discussed in the Arrangement. As noted in the first sentence of the third paragraph of 44 CFR part 62, appendix A, Article III. B. of the Arrangement:

[t]he amount of expense allowance retained by the Company may increase a maximum of two percentage points, depending on the extent to which the Company meets the marketing goals for the Arrangement year contained in marketing guidelines established pursuant to Article II.G.

The marketing incentive percentage will remain the same. However, through a separate document the National Flood Insurance Program is revising its targeted goals regarding the criteria for growth.

During August 2010, FEMA will send a copy of the offer for the FY2011 Arrangement, together with related materials and submission instructions, to all private insurance companies participating under the current FY2010 Arrangement. Any private insurance company not currently participating in the WYO Program but wishing to consider FEMA's offer for FY2011 may request a copy by writing: DHS/FEMA, Mitigation Directorate, Attn: Edward L. Connor, WYO Program, 1800 South Bell Street, Room 720, Arlington, VA 20598-3020, or contact Edward Connor at 202-646-3445 (facsimile), or [Edward.Connor@dhs.gov](mailto:Edward.Connor@dhs.gov) (e-mail).

**Edward L. Connor,**

*Acting Federal Insurance and Mitigation Administrator, National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2010-17977 Filed 7-21-10; 8:45 am]

**BILLING CODE 9110-11-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R5-ES-2010-N132; 50120-1113-0000-F2]

#### **Preparation of an Environmental Impact Statement for Issuance of an Incidental Take Permit and Associated Habitat Conservation Plan for the Beech Ridge Wind Energy Project, Greenbrier and Nicholas Counties, WV**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent and notice of meeting.

**SUMMARY:** Under the National Environmental Policy Act (NEPA), we, the U.S. Fish and Wildlife Service (Service or "we"), advise the public that we intend to gather information necessary to prepare an Environmental Impact Statement (EIS) on the proposed incidental take permit and associated Habitat Conservation Plan for the Beech Ridge Wind Energy Project (HCP). The proposed HCP is being prepared under the Endangered Species Act of 1973, as amended (ESA). The incidental take permit is needed to authorize the incidental take of listed species as a result of implementing activities covered under the proposed HCP.

We provide this notice to: (1) Describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected tribes, and the public of our intent to prepare an EIS; (3) announce the initiation of a 30-day public scoping period; and (4) obtain suggestions and information on the scope of issues and alternatives to be included in the EIS.

**DATES:** An "open-house" public meeting will be held on August 9, 2010, from 6 p.m. to 9 p.m. To ensure consideration, please send your written comments for receipt on or before August 23, 2010.

**ADDRESSES:** The public meeting will be held at the Community Center, 604 Nicholas Street, Rupert, WV 25984. Information, written comments, or questions related to the preparation of the EIS and NEPA process should be submitted to Ms. Laura Hill, Assistant Field Supervisor, by U.S. mail at U.S. Fish and Wildlife Service, West Virginia Field Office, 694 Beverly Pike, Elkins, WV 26241; by facsimile at (304) 636-7824; or by electronic mail (e-mail) at [fwses\\_wvfo@fws.gov](mailto:fwses_wvfo@fws.gov).

**FOR FURTHER INFORMATION CONTACT:** Ms. Laura Hill (**ADDRESSES**) at (304) 636-6586, extension 18. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at (800) 877-8337 for TTY assistance.

## SUPPLEMENTARY INFORMATION:

### Reasonable Accommodation

Persons needing reasonable accommodations in order to participate in the public meeting should contact Laura Hill (**ADDRESSES**) at (304) 636-6586, extension 18, no later than 1 week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

### Background

Section 9 of the ESA and Federal regulations prohibit the "take" of fish and wildlife species listed as endangered or threatened. Under the ESA, the following activities are defined as take: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize "incidental take" of listed species. Incidental take is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened and endangered species are at 50 CFR 13 and 50 CFR 17.

On December 8, 2009, the U.S. District Court of Maryland ruled that Beech Ridge Energy LLC was in violation of section 9 of the ESA for its potential to take endangered Indiana bats (*Myotis sodalis*) and its failure to file an application for an incidental take permit related to its wind energy project located in West Virginia. The Court determined that take of Indiana bats was likely over the life of the project via collision with turbines or barotrauma (*i.e.*, hemorrhaging of bats' lungs in low-pressure areas surrounding operating turbine blades).

The District Court ruled that Beech Ridge Energy LLC's construction and operation of wind turbines (40 in construction at the time, with a total of 124 hoped for by the end of 2010) would violate section 9 of the ESA unless and until the defendants, Beech Ridge Energy LLC, obtained an incidental take permit. The Court enjoined Beech Ridge Energy LLC from building additional turbines beyond the 40 already under construction, and restricted turbine operation to the bat hibernation season (November 15 to March 31) until Beech Ridge Energy LLC obtains an incidental take permit. The Court also invited the parties to confer on whether they could agree on terms for further turbine operation while Beech Ridge Energy LLC pursued an incidental take permit.

Under the terms of a settlement agreement reached between Beech Ridge Energy LLC and plaintiffs (Animal Welfare Institute, Mountain Communities for Responsible Energy, and David G. Cowan) on January 23, 2010, Beech Ridge Energy LLC has agreed not to build 24 of the original 124 turbines that are closest to known bat hibernacula. While the HCP is under development, the plaintiffs agreed that Beech Ridge Energy LLC may construct an additional 27 turbines (in addition to the 40 already under construction) and may operate these 67 turbines during specified times of the day and year when bats normally are not flying about and, thus, would not be at risk of mortality or injury from turbine operation.

### The Service's Proposed Action

Consistent with the court order and settlement agreement, Beech Ridge Energy LLC has indicated its intent to pursue an incidental take permit. Section 10(a)(1)(B) of the ESA authorizes the Service to issue incidental take permits to non-Federal land owners for the take of endangered and threatened species, provided that, among other requirements, the take will be incidental to otherwise lawful activities, will not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and will be minimized and mitigated to the maximum extent practicable.

In accordance with section 10(a)(2)(A) of the ESA of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), Beech Ridge Energy LLC is preparing an HCP in support of an application for a permit from the Service to incidentally take endangered Indiana bats (*Myotis sodalist*) and Virginia big-eared bats (*Corynorhinus townsendii virginianus*) (covered species). The proposed permit would authorize take of covered species for the lifespan of the project (anticipated to be at least 20 years) and during project decommissioning. The proposed HCP would be designed to avoid, minimize, and mitigate the impacts of any take that may occur.

Beech Ridge did not seek incidental take coverage for the construction of its first 67 turbines. But it now seeks to develop an HCP and seek a permit for covered activities that include the construction of up to 33 additional turbines (including associated construction and upgrade of access roads, and construction of staging areas and collection line trenches for these turbines), operation of the full array of 100 turbines, maintenance of an existing transmission line, and maintenance and decommissioning of the Beech Ridge

Wind Energy Project. Permit coverage may also include certain off-site mitigation activities such as habitat enhancement and installation of cave gates to benefit listed bats. Construction, operation, and decommissioning of the project, and actions to minimize and mitigate impacts, have the potential to take wildlife species protected under the ESA.

The proposed HCP would describe how the effects of the covered activities would be minimized, mitigated, and monitored under the conservation program. Program components would likely include avoidance and minimization measures (such as studies to test and then implement turbine operational changes that effectively reduce mortality and injury of listed bats and other wildlife), long-term monitoring, adaptive management, and mitigation measures consisting of on-site and/or off-site habitat protection and/or enhancement.

### Beech Ridge Wind Power Project Overview

Beech Ridge Energy LLC is developing a wind power project in Greenbrier and Nicholas Counties, West Virginia. The project would be located on approximately 32 kilometers (km) (20 miles (mi)) of ridge lines, approximately 8 km (5 mi) northwest of the town of Trout, about 11 km (7 mi) north-northwest of Williamsburg, and about 14 km (9 mi) northeast of downtown Rupert.

Phase 1 of the Project consists of 67 existing wind turbines and associated collection lines, access road, transmission lines, a substation, an operations and maintenance facility, temporary staging areas, and a concrete batch plant. Beech Ridge Energy LLC constructed 57 of these turbines between June 2009 and March 2010 and plans to construct the remaining 10 Phase 1 wind turbines before August 15, 2010. Beech Ridge Energy LLC proposes to construct an additional 33 turbines upon issuance of an incidental take permit.

Existing wind turbines constructed during Phase 1 of the project consist of 67 General Electric 1.5-Megawatt wind turbines, each with a 77-meter (m) (253-foot (ft)) rotor diameter, and a rotor swept area of 4,654 square m (50,095 square ft). The 33 additional wind turbines would have a maximum 100-m (328-ft) rotor diameter, with a rotor swept area of 7,875 square m (84,454 square ft).

The wind turbine hub height for the existing 67 turbines is 80 m (262 ft). The additional 33 turbines would have a hub height of up to 100 m (328 ft), for an

approximate total height of 117–150 m (389–492 ft) at the rotor apex. Installation of each individual turbine, including access roads, equipment laydown yards, and other supporting infrastructure, will temporarily impact an area of approximately 4.0 acres, while the final footprint of each turbine will be approximately 0.3 acre.

In addition to wind turbines, the project would include the following components:

(1) The project site is accessed using existing county public roadways and privately owned timber roads, plus existing upgraded or newly constructed all-weather access roads. The main access route for the project, including equipment deliveries, will be via County Road 1 North from Rupert to Clearco. An estimated 31,245 ft of existing roads were upgraded and approximately 40,620 ft of new access roads were or will be constructed for the 100-turbine project. Access roads to the turbines will have a temporary width of up to 18.2 m (60 ft) during construction, and a permanent width of 4.9 m (16 ft).

(2) A power collection system delivers power generated by the wind turbines to the project substation. Collector cables placed in trenches and buried underground connect the wind turbines. The underground collection system terminates at the project substation.

(3) A transmission line to connect the project to the existing electric power grid was constructed in 2009. It extends approximately 22.7 km (14.2 mi) northwest from the turbine strings to Allegheny Power's Grassy Falls Substation north of the community of Grassy Falls in Nicholas County, West Virginia. Temporary ground disturbance may be necessary during the life of the project to maintain the transmission line.

(4) An operations and maintenance (O&M) facility is currently being constructed to serve the project, including a main building with the Supervisory Control and Data Acquisition System, offices, spare parts storage, restrooms, a shop area, outdoor parking facilities, a turnaround area for larger vehicles, outdoor lighting, and a gated access with partial or full-perimeter fencing.

Routine maintenance consists primarily of daily travel by technicians that test and maintain the wind turbines. O&M staff travel in pickup or other light-duty trucks. Occasionally, the use of a crane or equipment transport vehicles will be necessary for cleaning, repairing, adjusting, or replacing the rotors or other components of the wind turbines. Cranes used for maintenance activities

are not as large as the large track-mounted cranes needed to erect the wind turbine towers and are likely to be contracted at the time of service and not stored at the facility.

Operations monitoring will be conducted from computers located in the base of each wind turbine tower and from the O&M building and other remote locations using telecommunication links and computer-based monitoring. Over time, it will be necessary to clean or repaint the blades and towers and periodically exchange lubricants and hydraulic fluids in the mechanisms of the wind turbines.

Decommissioning would involve removing the wind turbines, support towers, transformers, substation, and the upper portion of foundations. Site reclamation after decommissioning would be based on site-specific requirements and techniques commonly employed at the time the site is reclaimed. Techniques could include regrading, spot replacement of topsoil, and revegetation of all disturbed areas with an approved native seed mix. Wind turbine tower and substation foundations would be removed to a below-ground depth as agreed upon with landowners.

Approximately 200 workers have been or will be employed over the course of construction. During its year-round operation, there will be 8 to 18 permanent full-time and/or part-time employees on the O&M staff. The project is expected to function for at least 20 years.

The project is located in a rural setting, with the landscape primarily composed of forested areas that are actively cut for timber and coal mining. Several small towns (Trout, Williamsburg, Rupert) occur near the project area, but no homes or residential areas occur within the project.

The HCP and permit will contain provisions to monitor and report on the impacts from the project on birds and bats, as well as the effects of operational changes on wildlife mortality within the wind farm. In addition, any required tree clearing will be conducted during winter when bats are hibernating, unless otherwise authorized by the Service. Other methods to mitigate impacts from the project that may be considered include, but are not limited to, protection and enhancement of Indiana bat habitat outside the project area.

#### Environmental Impact Statement

We have selected Stantec to prepare the EIS for proposed issuance of an ESA incidental take permit to Beech Ridge LLC. The document will be prepared in accordance with requirements of NEPA,

as amended (42 U.S.C. 4321 *et seq.*), and NEPA implementing regulations (40 CFR parts 1500 through 1508), and in accordance with other applicable Federal laws and regulations, and the policies and procedures of the Service for compliance with those regulations. Stantec will prepare the EIS under the supervision of the Service, which will be responsible for the scope and content of the NEPA document.

The EIS will consider the proposed action, the issuance of a Section 10(a)(1)(B) permit under the ESA, no action (no permit), and a reasonable range of alternatives. A detailed description of the impacts of the proposed action and each alternative will be included in the EIS. We are currently in the process of developing alternatives for analysis. The alternatives to be considered for analysis in the EIS may include: Variations in the scope of covered activities; variations in curtailment of wind turbine operations; variations in the location, amount, and type of conservation; variations in permit duration; variations in monitoring the effectiveness of permit conditions; or a combination of these elements. We will consider other reasonable project alternatives recommended during this scoping process in order to develop a full range of alternatives.

The EIS will also identify direct, indirect, and cumulative impacts on biological resources, land use, air quality, water quality, water resources, socioeconomic, and other environmental issues that could occur with the implementation of the proposed actions and alternatives. For all potentially significant impacts, the EIS will identify avoidance, minimization, and mitigation measures to reduce these impacts, where feasible, to a level below significance.

Review of the EIS will be conducted in accordance with the requirements of NEPA, Council on the Environmental Quality Regulations (40 CFR 1500–1508), the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), other applicable regulations, and the Service's procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 of NEPA to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS. The primary purpose of the scoping process is to identify important issues and alternatives raised by the public, related to the proposed action.

We request data, comments, new information, or suggestions from the public, other concerned governmental

agencies, the scientific community, tribes, industry, or any other interested party on this notice. We will consider all comments we receive in complying with the requirements of NEPA and in the development of an HCP and incidental take permit. We particularly seek comments concerning: (1) Biological information concerning the Indiana bat and Virginia big-eared bat, as well as unlisted bats and birds; (2) relevant data concerning wind power and bat and bird interactions; (3) additional information concerning the range, distribution, population size, and population trends of the Indiana bat and Virginia big-eared bat, as well as unlisted bats and birds; (4) current or planned activities in the subject area and their possible impacts on the environment and resources; (5) the presence of facilities within the project area that are eligible to be listed on the National Register of Historic Places or whether other historical, archeological, or traditional cultural properties may be present; (6) the direct, indirect, and cumulative effects that implementation of any reasonable alternatives could have on endangered and threatened species and their habitats, as well as unlisted bats and birds; (7) adequacy and advisability of proposed minimization and mitigation measures for ESA-listed species and other wildlife; (8) post-construction monitoring techniques; and (9) identification of any other environmental issues that we should consider with regard to the proposed development and permit action.

Written comments from interested parties are welcome to ensure that the full range of issues related to the permit request is identified. Comments will only be accepted in written form. You may submit written comments at the public meeting, or by regular mail, e-mail, or facsimile transmission (*see ADDRESSES*).

All comments and materials we receive, including names and addresses, will become part of the administrative record and may be released to the public. Comments we receive will be available for public inspection, by appointment, during normal business hours (Monday through Friday; 8 a.m. to 4 p.m.) at the Service's West Virginia Field Office (*see ADDRESSES*).

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold personally identifying

information from public review, we cannot guarantee that we will be able to do so.

#### Author

The primary author of this notice is Laura Hill, U.S. Fish and Wildlife Service, West Virginia Field Office.

#### Authority

The authority for this section is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and National Environmental Policy Act, as amended, (42 U.S.C. 4321 *et seq.*)

Dated: July 1, 2010.

**Anthony D. Léger,**

*Acting Regional Director, Region 5, U.S. Fish and Wildlife Service.*

[FR Doc. 2010-17932 Filed 7-21-10; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Notice of Inventory Completion: Denver Museum of Nature & Science, Denver, CO

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Denver Museum of Nature & Science, Denver, CO. The human remains and associated funerary objects were removed from Grand County, UT; possibly eastern Utah or western Colorado; Montezuma County, CO; and the American "Southwest."

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains and associated funerary objects from the Rocky Mountains West was made by Denver Museum of Nature & Science professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Fort Mojave Indian Tribe of Arizona, California & Nevada; Fort Sill Apache Tribe of Oklahoma; Gila River

Indian Community of the Gila River Indian Reservation, Arizona; Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Tohono O'odham Nation of Arizona; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona; Ysleta del Sur Pueblo of Texas; Zuni Tribe of the Zuni Reservation, New Mexico, and the Southern Paiute Consortium, a non-federally recognized Indian group.

In the 1940s, human remains representing a minimum of four individuals were likely removed during excavations in eastern Utah or western Colorado by H. Marie Wormington, archeologist. In 1993, Wormington donated these remains to the museum (DMNS catalogue (and CUI numbers) A1985.1 (CUI 24), A1985.2 (CUI 25), A1985.3 (CUI 26), and A1985.4 (CUI 27)). Remains include one adult female found with unshaped rocks (not collected), one child of indeterminate sex, and two adults of indeterminate sex. Most of these individuals are

represented by fragmentary remains. Newspaper wrappings around the remains are dated to March 12, 1949. Wormington's field expeditions during this time focused on the area between Utah and Colorado. No known individuals were identified. No associated funerary objects are present.

In 1938, human remains representing a minimum of five individuals were excavated at the Turner-Look Site near Cisco, Grand County, UT, by Wormington. The human remains were removed during legal excavation on private land. The human remains were accessioned into the museum collection (A533.4A (CUI 28), A533.5C (CUI 29), A533.5B (CUI 30), A533.5C (CUI 31), and A533.6A (CUI 32)). Remains include one child, which was reportedly found with seven associated funerary objects, but only three were collected and in the museum's possession. The additional human remains are composed of one infant and three adult males (one with associated pottery sherds). When excavated these remains were defined within the then incipient culture type "Fremont" although this designation as it was then understood is ambiguous in today's archeological lexicon. No known individuals were identified. The four associated funerary objects are one small circular slate plaque (A533.4B), one stone metate (A533.7A), one lot of shell fragments (A533.36), and one lot of pottery sherds (A533.6B).

In 1968, Francis V. Crane and Mary W.A. Crane donated a hair bundle representing one individual to the museum (AC.7653; CUI 33). Documents indicate the hair was taken from the middle of Montezuma County, CO, in Mitchell Canyon, by Ezra Hambelton. In 1964, the Cranes purchased the hair bundle from the Fred Harvey Company. This bundle of hair is wrapped with a fiber around the middle. The hair is cut straight and is black-brown in color. No known individual was identified. No associated funerary objects are present.

In 1981, the cranium of an adult male was accessioned. The accession records indicate the individual is a "Pueblo Indian, Southwest" (A1150.1; CUI 34). In 1983, two individuals, represented by the right arm bone of an adult of indeterminate sex (AC.2874; CUI 35) and two leg bones of an adult of indeterminate sex (AC.4896A-B; CUI 36), were accessioned. These individuals were originally acquired by the Cranes from Gans, Inc. Southwest Arts and Crafts sometime between 1954 and 1959. Documents indicate these individuals are from the "Southwest." In 1986, two individuals were accessioned (A1988.1; CUI 38 and A1989.1; CUI 39).

For immediate release  
August 27, 2010

News media: for further information, contact  
Laura Hill 304-636-6586 x18  
Diana Weaver 413/253-8329

## **Comment period extended on**

### **Beech Ridge Wind Energy Project in West Virginia**

In response to substantial public interest and requests for additional time to comment, the U.S. Fish and Wildlife Service has extended the deadline for comments on the environmental effects of a proposed Endangered Species Act permit for Beech Ridge Energy, LLC, until Sept. 23, 2010. The Service is preparing an environmental impact statement on the proposed permit for the Beech Ridge Wind Energy Project in Greenbrier and Nicholas counties, West Virginia.

Beech Ridge had constructed 40 turbines when the U.S. District Court of Maryland ruled that the company was in violation of the ESA for its failure to obtain an incidental take permit for the project's potential to kill endangered Indiana bats.

Beech Ridge agreed to apply for the required endangered species permit. Before the Service can issue a permit, the agency must analyze the project impacts to the environment. On July 22, the Service issued a notice to gather information to begin this analysis. Comments originally were due by Aug. 23; however, to ensure adequate public participation, the Service has re-opened and extended the comment period by 30 days.

Beech Ridge entered into a settlement agreement with the plaintiffs in the case that allows the company to build 27 additional turbines and to operate the turbines during times of the day and year when bats normally are not flying and would not be at risk of being killed by the turbines. These restrictions remain in place unless they are superseded by an ESA permit.

Consistent with the court order and settlement agreement, Beech Ridge is preparing a habitat conservation plan in support of the application for a permit from the Service to take (kill or harm) endangered Indiana bats and Virginia big-eared bats incidental to project operation. The proposed HCP would be designed to avoid, minimize and mitigate impacts to the bats.

"The National Environmental Policy Act process provides an opportunity for the public to comment on the range of alternatives and issues to be included in the environmental impact statement for the proposed permit to Beech Ridge Energy, LLC," said Deb Carter, supervisor of the Service's West Virginia Field Office in Elkins. "During the public comment period, we encourage people to submit information on

significant environment issues. This will help define the depth to which such concerns are addressed in the EIS.”

Information, written comments or questions related to the preparation of the EIS and NEPA process should be submitted to Ms. Laura Hill, Assistant Field Supervisor, U.S. Fish and Wildlife Service, West Virginia Field Office, 694 Beverly Pike, Elkins, WV 26241; fax 304-636-7824; or e-mail to [fw5es\\_wvfo@fws.gov](mailto:fw5es_wvfo@fws.gov). To ensure consideration, please send your written comments for receipt on or before Sept. 23. For further information, contact Hill at 304-636-6586, extension 18. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800-877-8337 for TTY assistance.

The mission of the Service is working with others to conserve, protect and enhance fish, wildlife and plants and their habitats for the continuing benefit of the American people. We are both a leader and trusted partner in fish and wildlife conservation, known for our scientific excellence, stewardship of lands and natural resources, dedicated professionals and commitment to public service. For more information on our work and the people who make it happen, visit [www.fws.gov](http://www.fws.gov).

-FWS-



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

West Virginia Field Office  
694 Beverly Pike  
Elkins, West Virginia 26241



July 26, 2010

**RE: Scoping Notice; Incidental Take Permit for Beech Ridge Wind Energy Project**

Dear Interested Parties:

This is to notify you of the recent *Federal Register Notice* announcing the U.S. Fish and Wildlife Service's (Service) intent to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) regarding an anticipated application from Beech Ridge Energy LLC for an incidental take permit for take of endangered Indiana bat (*Myotis sodalis*) and endangered Virginia big-eared bat (*Corynorhinus townsendii virginianus*) in accordance with section 10(a)(1)(B) of the Endangered Species Act of 1973 (ESA).

The Service will be responsible for completing a review of the ESA Section 10 permit application, and documenting our findings in an EIS pursuant to the NEPA and the ESA. The ESA Section 10 permit application and related habitat conservation plan (HCP) will describe avoidance, minimization, and mitigation measures that will be used to protect the Indiana bat and Virginia big-eared bat at the proposed Beech Ridge Wind Project (Project). The EIS will assess the effects on the environment of the proposed action: issuing a permit and implementing the HCP. In addition, the Service's Biological Opinion will document to what extent take of Indiana bats and Virginia big-eared bats will occur, and if that take will result in jeopardy to the species as a whole. If the proposed action will not result in jeopardy to the species, and other permit issuance criteria are met, the Service will issue an incidental take permit authorizing a specific amount of take of Indiana bats and Virginia big-eared bats over a specific period of time to Beech Ridge Energy LLC.

The scoping period for the proposed permit is currently open for public comment. The HCP and EIS are not complete yet, and there are no documents to review. The Service is simply requesting suggestions and information from the public and any interested parties on the scope of issues and alternatives to be included in the EIS. Once the HCP and Draft EIS are completed, they will be available for public review and comment.

Please see the enclosed press release and Federal Register notice for more information.

Sincerely,

*Laura Hill*  
For Deborah Carter  
Field Supervisor

Enclosures

## **EIS Mailing List**

Governor Joe Manchin III  
1900 Kanawha Boulevard E.  
Charleston, WV 25305

WV Senator William Laird IV  
Room 229W, Building 1  
State Capitol Complex  
Charleston, WV 25305

WV Senator Randy White  
Room 204W, Building 1  
State Capitol Complex  
Charleston, WV 25305

WV Congressman Thomas Campbell  
Room 472M, Building 1  
State Capitol Complex  
Charleston, WV 25305

WV Congressman Ray Canterbury  
Room 231E, Building 1  
State Capitol Complex  
Charleston, WV 25305

WV Congressman Sam Argento  
Room 216E, Building 1  
State Capitol Complex  
Charleston, WV 25305

U.S. Congressman Nick Rahall  
301 Prince St.  
Beckley, WV 25801

U.S. Congressman Alan Mollohan  
P.O. Box 1400  
Clarksburg, WV 26303

U.S. Senator Jay Rockefeller  
405 Capital St., Suite 508  
Charleston, WV 25301

Spurgeon "Jinks" Hingle  
Nicholas County Commission  
700 Main St., Suite 1  
Summersville, WV 26551

Karen Lobban  
Greenbrier County Commission  
200 Court St. North  
Lewisburg, WV 24901

Mayor  
Town of Rupert  
P.O. Drawer B  
Rupert, WV 25984

Mayor  
Town of Rainelle  
201 Kanawha Ave.  
Rainelle, WV 25962

Mayor  
Town of Richwood  
6 White Avenue  
Richwood, WV 26241

Town of Renick (haven't confirmed  
address yet but phone is correct)  
654P Church Ln  
Frankford, WV 24938  
304-497-3018

Roger Anderson  
West Virginia Division of Natural  
Resources  
P.O. Box 67  
Elkins, WV 26241

Lyle Bennett  
West Virginia Department of  
Environmental Protection  
601 57<sup>th</sup> St. SE  
Charleston, WV 25304

Earl Melton  
West Virginia Public Service Commission  
201 Brooks St., P.O. Box 812  
Charleston, WV 25323

Susan Pierce  
WV Division of Culture and History  
State Historic Preservation Office  
1900 Kanawha Boulevard East  
Charleston, WV 25305

Ginger Mullins  
U.S. Army Corps of Engineers  
Regulatory Branch  
502 Eighth St  
Huntington, WV 25701

Federal Aviation Administration  
Mike Blaich  
FAA Southern Regional Office  
1701 Columbia Ave.  
College Park, GA 30337  
Room Number: AJR-322, OES

U.S. Dept. of Energy  
U.S. Department of Energy  
Office of NEPA Policy and Compliance  
(GC-54)  
1000 Independence Avenue, S.W.  
Washington, DC 20585

Bill Eubanks (to cover all plaintiffs)  
Meyer Glitzenstein & Crystal  
1601 Connecticut Ave. NW, Suite 700  
Washington, DC 2009

Mark Kauffelt  
Kauffelt & Kauffelt  
P.O. Box 30822  
Charleston, WV 25314

Judith Rodd  
Friends of Blackwater  
501 Elizabeth St., Room 3  
Charleston, WV 25311

Larry Thomas  
P.O. Box 194  
Circleville, WV 26804

Frank O'Hara  
Allegheny Front Alliance  
940 Orchard St.  
Keyser, WV 26726

Michael Fry  
American Bird Conservancy  
1731 Connecticut Avenue NW  
Washington, DC 2009

Brooks Bird Club  
Cynthia Dunlap Ellis  
RR 1, Box 163  
Red House, WV 25168  
(304)586-4135

Ross Conover  
Glenville State College  
Dept. of Science & Mathematics  
200 High Street  
Glenville, WV 26351

Frank Young  
Sierra Club  
Rt. 1 Box 108  
Ripley WV 25271

Ross Dowdy  
RR1 Box 57  
Lindside, WV 24951

Newspapers for press releases:  
The West Virginia Daily News  
(Greenbrier County)  
Nicholas County Chronicle  
The Charleston Gazette

Jennifer Gihring  
University of Tennessee  
274 Ellington Plant Sciences Building  
Knoxville, TN 37996

EIS filing:  
EPA  
OEPC



## How You Can Be Involved

Public comments will be considered during the Public Scoping Period and the Draft EIS Public Review and Comment Period. The HCP will be available for review during the Draft EIS Review Period.

**Comments Requested:** You are invited to provide project-relevant information concerning:

- Indiana and Virginia big-eared bats, as well as unlisted bats & birds;
- Wind power and bat & bird interactions;
- Current or planned activities in the subject area and their possible impacts;
- National Register of Historic Places listed or eligible properties;
- Direct, indirect, and cumulative effects of alternatives;
- Adequacy and advisability of proposed minimization and mitigation measures;
- Post-construction monitoring techniques;
- Other environmental issues.

## Public Involvement Opportunities

- Public Scoping Period – July 22, 2010 to August 23, 2010
- Public Scoping Meeting – Aug 9, 2010
- Tentative draft EIS Public Review and Comment Period –October/December 2010
- Tentative Public Comment Meeting on Draft EIS – November 2010

Those wishing to submit comments are encouraged to do so by August 23, 2010:

### US Mail

Laura Hill - Asst. Field Supervisor  
West Virginia Field Office - USFWS  
694 Beverly Pike  
Elkins, WV 26241

### Fax

304-636-7824

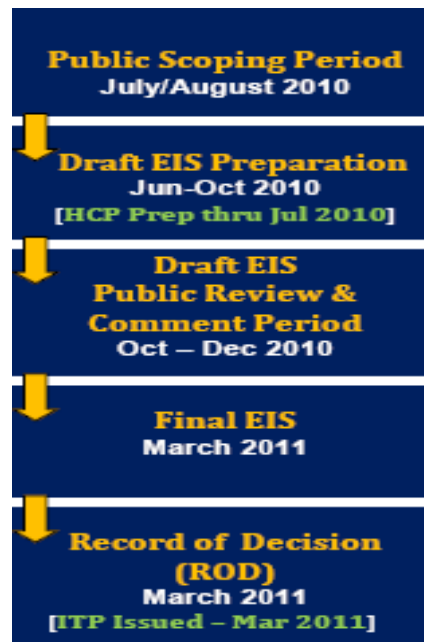
### Email

fw5es\_wvfo@fws.gov

### Website

<http://www.fws.gov/westvirginiafieldoffice>

## Tentative Schedule



## Beech Ridge Energy LLC

## Habitat Conservation Plan

## Incidental Take Permit

## Environmental Impact Statement



## Endangered Species Act Permitting

The U.S. Fish and Wildlife Service (Service) is responsible for administering the Endangered Species Act (ESA). An Incidental Take Permit (ITP) is needed if a person or company wants to do something that may result in the “taking” of an ESA-protected species. “Take” is defined by the ESA as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.”

Beech Ridge Energy LLC intends to apply for an ITP for the possible take of endangered Indiana and Virginia big-eared bats from construction and operation of the Beech Ridge Wind Project in Greenbrier and Nicholas counties, West Virginia.

## What is an HCP/ITP?

Section 10 of the ESA states that people or companies who want to conduct activities that could put them at risk of unlawful “take” of Federally-listed endangered or threatened species may apply for an ITP, which protects them from such liability.

**HCP/ITP Process.** To receive an ITP, the Applicant must first submit a Habitat Conservation Plan (HCP) to the Service. Should the Service approve the HCP, the applicant will receive an ITP. Among other permit issuance criteria, the HCP must minimize and mitigate the taking of listed species to the maximum extent practical. In addition, the “taking” must be a side effect of an otherwise lawful activity, and not the specific purpose of the activity.

## What is NEPA?

NEPA stands for the National Environmental Policy Act of 1969 (NEPA). It is a national policy with goals for the protection, maintenance, and enhancement of the environment. The NEPA process helps agencies make decisions that are based on the understanding of environmental consequences and to take actions that protect or minimize impacts to the environment.

## Required U.S. Fish & Wildlife Service NEPA Review

**NEPA Trigger.** The Service consideration of an ITP application and associated HCP is defined as a Federal action, which means the Service must comply with NEPA.

**NEPA Review.** The Service has **determined that an Environmental Impact Statement (EIS) is an appropriate level of review for this project.**

The EIS will evaluate potential impacts of the proposed Federal action (permit issuance), as well as a range of alternatives to that action (including the “no action” alternative). Throughout the NEPA process, there will be formal public scoping and comment periods and the involvement of other agencies. The Service will also develop a Biological Opinion of the ITP’s potential impact on listed species.

## What Does an EIS Include?

An EIS includes the identification of the proposed action and purpose and need for the proposed action, alternative identification and a systematic examination of the alternatives’ potential impacts on resources in the human and natural environment. Direct, indirect and cumulative impacts are identified together with methods for avoidance, minimization and mitigation of impacts.



Thank you for completing and returning this postage-paid comment sheet. We greatly appreciate your participation. Please return this by August 23, 2010. Comments can also be provided through the link on the U.S. Fish and Wildlife Service website, located at: <http://www.fws.gov/westvirginiafieldoffice>

<b>Name (First and Last)*</b>					
<b>Organization</b>					
<b>Title</b>					
<b>Address*</b>					
<b>City*</b>		<b>State*</b>		<b>Zip Code*</b>	
<b>E-mail</b>				<b>Phone*</b>	

### Comments on the Scope of the Environmental Impact Statement:

[illegible]

☐ Newspaper ad    ☐ Website    ☐ Federal Register Notice of Intent    ☐ Word of mouth

☐ Other: \_\_\_\_\_

☐ Yes   ☐ Somewhat   ☐ No   ☐ Don't know / no opinion

**Privacy Notice:** Please be aware that names and addresses of respondents may be released if requested under the Freedom of Information Act. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your written comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

[illegible]

.....

Please  
provide  
postage  
here.

# Beech Ridge Wind Farm Project EIS

## WELCOME Public Scoping Meeting

Rupert Community Center  
604 Nicholas Street  
Rupert, WV 25984

6p.m. – 9 p.m.  
August 9, 2010

Beech Ridge Energy LLC



Stantec

# Meeting Agenda

- ▶ Introductions – U.S. Fish & Wildlife Service
- ▶ Project History – Beech Ridge Energy LLC
- ▶ EIS & Scoping Process – Stantec Consulting
- ▶ HCP and ITP Explained – U.S. Fish & Wildlife Service
- ▶ Public Comment Opportunities – U.S. Fish & Wildlife Service



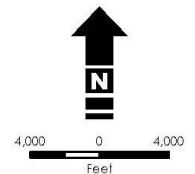
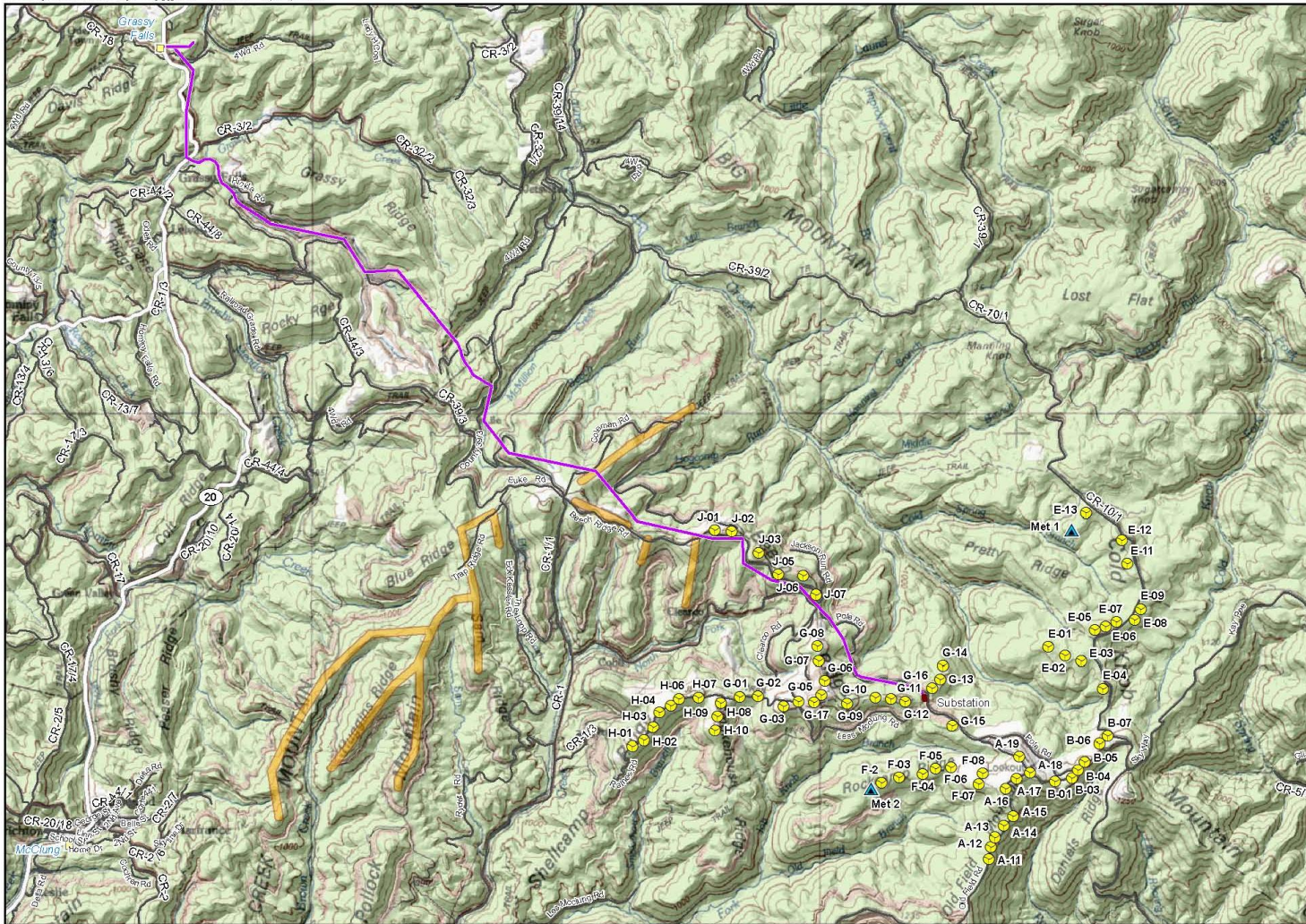
# Project Notice of Intent

U.S. Fish and Wildlife Service is gathering information needed to prepare an **Environmental Impact Statement (EIS)** on the proposed **Incidental Take Permit (ITP)** and associated **Habitat Conservation Plan (HCP)** for the Beech Ridge Wind Farm Project in Greenbrier and Nicholas Counties, West Virginia.



# Beech Ridge Wind Farm Project

File: Beech Ridge Wind Farm Utility Beech Ridge\_WV\_1.2.mxd Date: 07/20/10 Prepared by: klm/bk



## Legend

- Substation Location
- Turbine Location
- ▲ Met Tower Location
- Transmission Line
- Secondary Road
- Local Road
- Substation Location
- Potential Expansion Areas

## Beech Ridge Wind Energy Project

Beech Ridge Wind Energy Center, Greenbrier County, West Virginia

Figure 1.2  
August 03, 2010

**Beech Ridge  
Energy LLC**

One South Wacker Drive, Suite 1900  
Chicago, Illinois 60606  
(312) 224-1400

# Indiana and Virginia big-eared Bats

- ▶ **Indiana Bat** and the **Virginia Big-Eared Bat** are listed as endangered under the Endangered Species Act
- ▶ Range includes southeastern U.S.
- ▶ Wind turbines running at night can cause bat mortality
- ▶ The Habitat Conservation Plan can mitigate project impacts



# Beech Ridge Energy Overview

- ▶ *Developer, owner, and operator* of large scale wind energy generation projects
- ▶ One of the *top 5* wind energy developers in North America based on number of constructed projects (over 2500 MW of operating wind farms)
- ▶ Largest *independent* wind energy developer in the U.S.



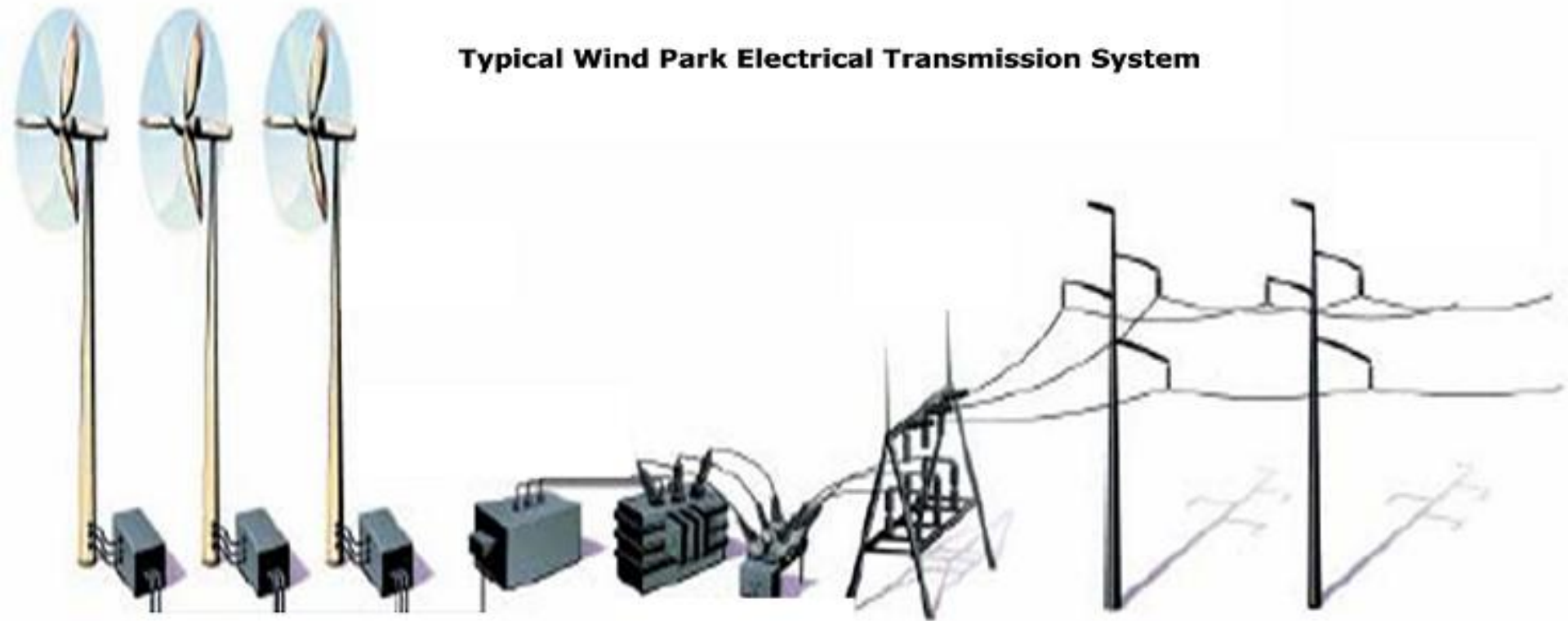
# Wind Energy Benefits

- ▶ Economically competitive
- ▶ New crop for landowners & no water use
- ▶ National security attributes (indigenous)
- ▶ Inexhaustible (renewable)
- ▶ Environmental benefits (no emissions)
- ▶ Fuel is free; reduces risk of volatile fossil fuel prices

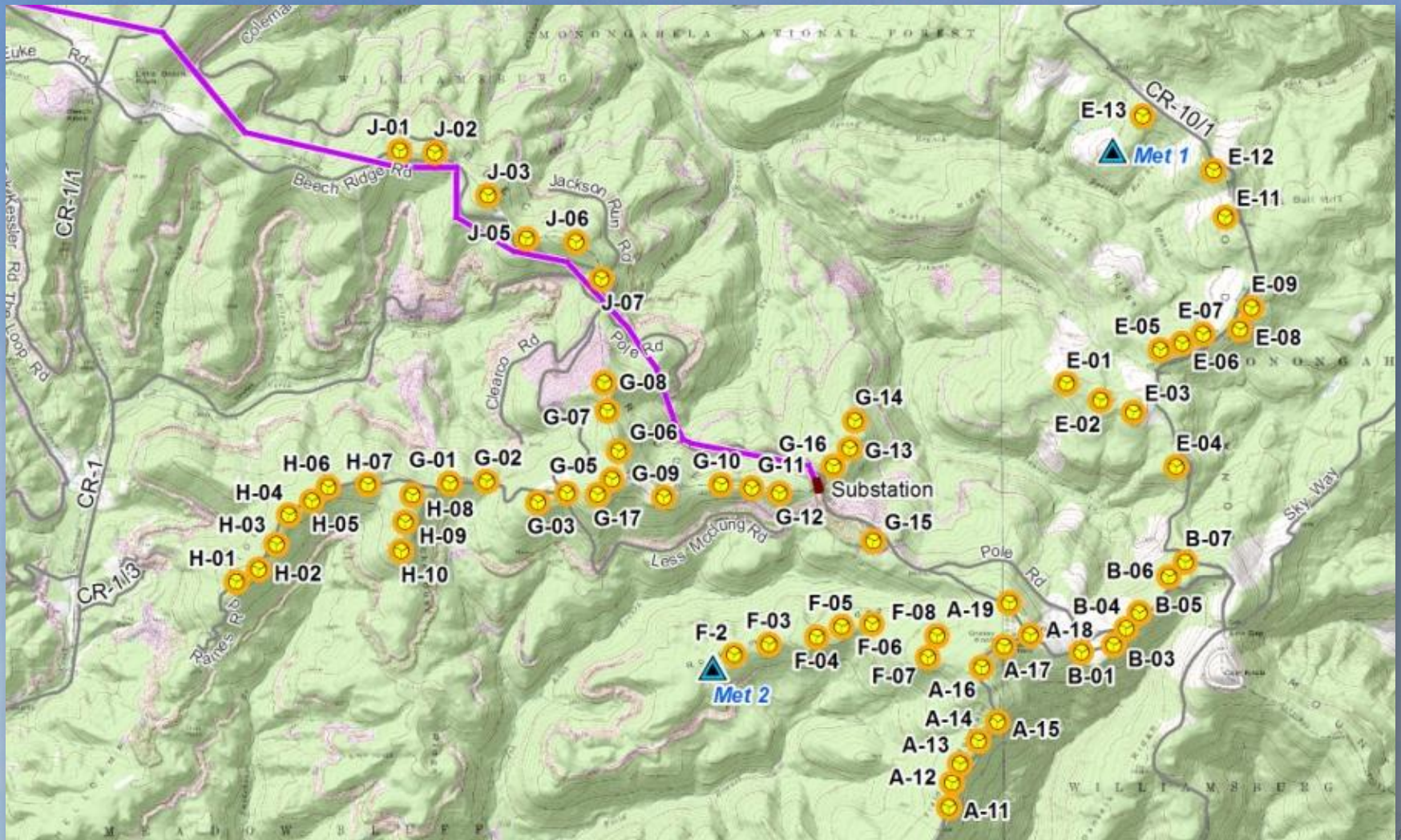


# Typical Wind Project

**Typical Wind Park Electrical Transmission System**



# Existing Turbine Locations



# Project Site Selection Goals

- ▶ Wind resource
- ▶ Proximity to existing transmission
- ▶ Need for wind-generated electricity
- ▶ Willing landowner
- ▶ Compatible existing land uses (include timber production and coal mining)
- ▶ Few environmental issues



# Beech Ridge Project History –1

- ▶ Privately Funded Project
- ▶ Siting Certificate issued in August 2006 by WV Public Service Commission (WVPSC) after detailed review
- ▶ Project in compliance with local, state, and federal laws
- ▶ On February 13, 2009, the WVPSC authorized construction of the project
- ▶ Phase I project construction began



# Beech Ridge Project History –2

- ▶ June 2009 – Lawsuit against Beech Ridge & Invenergy for the possible “take” of endangered bats
- ▶ December 2009 – U.S. District Court instructed Beech Ridge & Invenergy to apply for an ITP
- ▶ Settlement – 24 turbines withdrawn due to proximity to bat hibernacula, 67 turbines okayed with operations restrictions



# Phase I – Existing Project

67 turbines with access roads, transmission line and power collection system – with operations restrictions

- ▶ 24 hours/day – Nov 16 – Mar 31
- ▶ ¼ hour after sunrise to ½ hour before sunset April 1 – Nov 15

**Beech Ridge Energy Goal: extended nighttime hours during non-winter months per HCP & ITP**

**10 of the 67 turbines to be completed by August 2010.**

# Phase II – Next Phase

Construct and operate 33 additional turbines

**Beech Ridge Energy Goal: Construct up to 33 additional turbines**

- ▶ Operate 24 hours/day – Nov 16 – Mar 31
- ▶ Operate nighttime hours during non-winter months per HCP & ITP

Project commitments include operations & maintenance as well as decommissioning



# What is NEPA?

- ▶ National Environmental Policy Act of 1969
- ▶ Federal agencies must conduct environmental reviews for proposed federal actions
- ▶ Consider impacts on social, economic, biological and physical environment
- ▶ Include interagency cooperation and public participation



# Why is an EIS being prepared?

The federal action:

- ▶ approval of HCP
- ▶ issuance of an ITP for the take of endangered bats  
Indiana bat and Virginia big-eared bat

Service determined that an EIS is an appropriate level of review for this project.

Detailed environmental review of the federal action, public scoping, public comment periods on the draft and final EIS, and the involvement of other agencies.



# Tentative Schedule

EIS will:

- ▶ Analyze Impacts of Approving the Habitat Conservation Plan (HCP)
- ▶ Analyze Impacts of Issuing the Incidental Take Permit (ITP)

**US FWS  
Biological  
Opinion on  
ITP**

**Public Scoping Period**  
Jul - Aug 2010

**Draft EIS Preparation**  
Jun - Oct 2010  
[HCP Prep thru Sept 2010]

**Draft EIS  
Public Review & Comment  
Period**  
Oct - Dec 2010

**Final EIS**  
Mar 2011

**Record of Decision (ROD)**  
Mar 2011  
[ITP Decision - Mar 2011]



# EIS Process

- ↓ Purpose and Need
- ↓ Scoping – Public & Agency Meetings
- ↓ Data Collection
- ↓ Alternatives Development & Analysis
- ↓ Environmental Impact Analysis
- ↓ Preparation & Publication of Draft EIS
- ↓ Public & Agency Review & Meetings
- ↓ Preparation & Publication of Final EIS
- ↓ Preparation of Decision Document (Record of Decision)



# What's Included in an EIS?

- ▶ Executive Summary
- ▶ Purpose and Need
- ▶ Alternatives Analysis
- ▶ Affected Environment
  - Social and Economic Resources
  - Natural Resources
  - Physical Resources
- ▶ Environmental Consequences
  - Construction and Operation Impacts
  - Cumulative Impacts
- ▶ Impacts Avoidance, Minimization & Mitigation



# What is Scoping?

Scoping is the first phase of public involvement in an EIS. It is a part of the process by which the Agencies gather information regarding the:

- ▶ Proposed Action
- ▶ Alternatives to be considered
- ▶ Significant issues to be analyzed
- ▶ Possible mitigation measures
- ▶ Availability of data relevant to the analyses
- ▶ Interested individuals and organizations and their specific concerns



# What Alternatives Will Be Analyzed?

- ▶ The Proposed Action
- ▶ The No Action Alternative (No ITP)
- ▶ Additional Alternative Variations:
  - *Covered activities*
  - *Curtailment of wind turbine operations*
  - *Locations, amount & types of conservations*
  - *Permit duration, monitoring permit effectiveness*
- ▶ Additional alternatives that may be identified through the public scoping process



# What's an HCP?

**Habitat Conservation Plan** – designed to minimize and mitigate harmful impacts of the proposed project on the endangered species.

- ▶ Identifies: impacts, feasible alternatives – if any, and solutions to minimize and mitigate impacts
- ▶ Includes monitoring proposal



**Must Accompany  
Incidental Take Permit**

# What's an ITP?

**Incidental Take Permit** –allows the lawful take of an endangered species (*mortality of listed bats associated with wind turbine operations*) without fear of incurring civil and criminal penalties, incidental to carrying out an otherwise lawful activity (*operating wind generation facility*)

- ▶ U.S. Fish and Wildlife Service will monitor project for compliance effectiveness
- ▶ ITP can be suspended or revoked in all or in part for failure to comply

# U.S. Fish and Wildlife Service



**Mission:** *to work with others to conserve, protect and enhance fish, wildlife, plants and their habitats for the continuing benefit of the American people.*

**Goal for the Beech Ridge Wind Farm Project** – To ensure the long-term survival of federally listed species through protection and management within the context of this project



# Public Involvement Opportunities

- ▶ Public Scoping – July 22, 2010 to August 23, 2010
- ▶ Scoping Meeting – August 9, 2010
- ▶ Tentative Draft EIS Review and Comments – October/November 2010
- ▶ Tentative Public Comment Meeting on Draft EIS – November 2010



# Project Website

<http://www.fws.gov/westvirginiafieldoffice>

- ▶ Information on the EIS process
- ▶ Information on wind energy resources and technologies
- ▶ EIS-related documents
- ▶ Project schedule and project updates
- ▶ Online comment forms
- ▶ Email notification sign-up
- ▶ Contact information



# How to Provide Scoping Comments

There are 3 ways to provide scoping comments:

- ▶ At this scoping meeting
- ▶ Via the project website:  
<http://www.fws.gov/westvirginiafieldoffice>
- ▶ Via mail

Scoping comments will be accepted through August 23, 2010.



# Comments Requested

## Relevant Information Concerning:

- ▶ Indiana & Virginia big-eared bats, unlisted bats & birds
- ▶ Wind power – bat & bird interactions
- ▶ Current or planned activities in the subject area and their possible impacts on environment and resources
- ▶ National Register of Historic Places listed or eligible properties
- ▶ Direct, indirect, and cumulative effects of alternatives
- ▶ Adequacy and advisability of proposed minimization and mitigation measures
- ▶ Post-construction monitoring techniques
- ▶ Other environmental issues

Thank You  
For Coming  
to the  
Beech Ridge Energy Farm  
Project Public  
Scoping Meeting



Beech Ridge Wind Farm Project EIS - Public Scoping Meeting Summary  
August 9, 2010  
Rupert, West Virginia

Notes recorded by Joanna Morsicato, Jeff Schwierjohann, and Steve Hall

Presentation given from ~1820-1900; comments from ~1900-1930

Meeting Introductions and slides 1-5: Laura Hill, USFWS, Elkins Field Office

Beech Ridge Energy Overview, Project History and Phase Description with slides 6-14:  
Erik Duncan, Beech Ridge Energy LLC

NEPA Process Summary with slides 15-21: Steve Hall, Stantec Consulting

HCP and ITP definitions, Public Involvement Opportunities and Comment Moderator  
with slides 22+: Laura Hill

Public Comments: Fifteen individuals commented. Names were not provided.

1. *Comment- Were bats killed at Beech Ridge yet? Question on turbine speeds?*  
Response – Hill: The site has not been monitored yet. Two other locations have been monitored. Erik Duncan noted wind turbine speed is usually 17 rpm even if it looks slow.
2. *Comment – Have any bats been found on this project?*  
Response- Hill: Neither of the endangered bats have been found in the immediate area and there are a couple of caves within 9-12 miles of the project.
3. *Comment – We are holding up this project because maybe a bat would come through?*  
Response – Hill: Unfortunately there is now a law suit involved.
4. *Comment – Were any Indiana bats killed by wind turbines?*  
Response – Hill: Indiana bats, one was killed in Indiana. Five hundred bats have been killed (where?), but no Indiana or Virginia big-eared killed to date.
5. *Comment – Concerns are: delayed employment, no bats killed and wasteful spending, 67 turbines are running so what are we concerned about? We need a proper perspective.*
6. *Comment – WNS (white nose syndrome) is a bigger threat, what about caving?*  
Response – Hill: WNS is new, started in NY and is spreading, killing large numbers of bats, it's a fungus. Bats are waking up and using fat reserves, flying out at the wrong time due to the fungus. Cavers may spread it on their boots or maybe it is spreading bat-to-bat.

7. *Comment about person who filed lawsuit – unclear.*
8. *Comment – Food chain is not there for bats at this high altitude.*

Response – Hill....

9. *Comment – Extensive:*

- *For the EIS take air photos, use Westvaco maps and tree types. 80% of the trees are less than 10” at breast height and not roosting habitat?*
- *Also temperatures on the ridge are in the 50’s – doubt that temperature range is conducive to bats?*
- *Check cave elevations – greater than 900’ level and no bats?*
- *FWS should take a bold step – like Field office in Region 3 – make an elevation rule. Westvaco cuts timber in these areas?*
- *Project at greater than 3000’ shouldn’t worry about bats.*
- *Review Rainelle Power Plant EIS; very informative*

Response – Hill: Please submit detailed comments in writing.

10. *Comment – Project Support:*

- *Consider economic impact – region needs jobs*
- *BRE– wonderful corporate citizen*
- *Need alternative energy for our county*
- *Wind farm technology is in early stages*
- *What if animals can adapt themselves? (God will tend to his creatures)*
- *Project is environmentally conscious*
- *Need an elevational standard*

*Applause followed commenter speech.*

Response – Hill: Please submit detailed comments in writing.

11. *Comment - Will FWS look at elevations – 3-dimensional assessment?*

Response – Hill: Elevations are identified for maternity areas and that doesn’t mean bats don’t fly at higher or lower elevations. We do look at elevations – higher elevations are usually lower risk areas for bats.

12. *Comment – Not seen one bat although they are hard to see at night.*

13. *Comment – bats are not the problem – it’s people and drugs. People growing pot and cooking meth are against the project and have formed an organized opposition using the environment as an arguing point (i.e., they don’t care about env., just want their drug refuge undisturbed).*

Laura Hill closed the meeting and invited written comments from all who attended.