



DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

I. PERMITTEE

BEECH RIDGE ENERGY LLC
ONE SOUTH WACKER DRIVE
SUITE 1900
CHICAGO, IL 60606
U.S.A.

2. AUTHORITY-STATUTES
16 USC 1539(a)

REGULATIONS
50 CFR 17.22

50 CFR 13

3. NUMBER
TE16692B-0

4. RENEWABLE
☒ YES
☐ NO

5. MAY COPY
☒ YES
☐ NO

6. EFFECTIVE
12/05/2013

7. EXPIRES
12/04/2038

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)

ALEX GEORGE
VICE PRESIDENT

9. TYPE OF PERMIT

NATIVE ENDANGERED SP. HABITAT CONSERVATION PLAN - E
WILDLIFE

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

Beech Ridge Wind Energy Project (Phases I and II)
Greenbrier and Nicholas Counties, West Virginia.

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL, TRIBAL, OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

AND CO-PERMITTEE: BEECH RIDGE ENERGY II LLC
ONE SOUTH WACKER DRIVE
SUITE 1900
CHICAGO, IL 60606
U.S.A.

D. The co-permittees will be jointly responsible for implementing the terms and conditions of the habitat conservation plan (HCP), incidental take permit (ITP), and the implementing agreement (IA). If either co-permittee fails to implement the terms and conditions, then this permit will be considered to be in violation for both entities.

E. Acceptance of this permit serves as evidence that the co-permittees and their authorized agents understand and agree to abide by all of the terms of the permit and all sections of title 50 Code of Federal Regulations, parts 13 and 17, pertinent to issuance of incidental take permits. Section 11 of the Endangered Species Act of 1973, as amended (ESA), provides for civil and criminal penalties for failure to comply with permit conditions.

F. The co-permittees, and their authorized agents, are authorized to take Indiana bats (*Myotis sodalis*) and Virginia big-eared bats (*Corynorhinus townsendii virginianus*), which are listed as endangered under the ESA, during wind turbine operations of phase I and II of the Beech Ridge Wind Energy Project as described in the associated HCP, and as conditioned herein.

☒ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

Annual HCP implementation reports and expenditure reports are due to the USFWS West Virginia Field Office no later than February 15 and April 30 of each year, respectively (see permit condition U and V).

ISSUED BY

Paul R. Pfy

TITLE

ASSISTANT REGIONAL DIRECTOR - ES

DATE

12/05/2013

G. The authorization granted by this permit is subject to full implementation and compliance with the HCP, including all appendices, and the IA between the U.S. Fish and Wildlife Service (USFWS) and the co-permittees. This ITP, the HCP, and the IA are binding upon the co-permittees, and any authorized officer, employee, contractor, or agent conducting covered activities.

H. Unless the permit is amended, suspended, revoked or terminated, the permit duration shall be 25 years. The signed and issued permit will be considered effective following execution of the IA by both USFWS and the co-permittees.

I. This permit authorizes take of Indiana bats and Virginia big-eared bats on covered lands (HCP section 1.4 and HCP appendix A) over the 25-year permit period. The amount of take authorized by this permit is:

1. Cumulative mortality of up to 53 Indiana bats (including both actual Indiana bats and estimated Indiana bat fatalities from the surrogate approach) associated with wind turbine operations (section 5.1 of HCP appendix C)
2. Cumulative mortality of up to 14 Virginia big-eared bats (including both actual Virginia big-eared bats and estimated Virginia big-eared bat fatalities from the surrogate approach) associated with wind turbine operations (section 5.1 of HCP appendix C)

J. In the event that one of following thresholds is exceeded, the co-permittees are required to promptly notify and confer with USFWS to determine whether adjustments to the wind turbine curtailment strategy, or additional operational changes (section 5.1 of HCP appendix C), are required to ensure the project remains within authorized take levels identified in permit condition I.

1. Indiana bat estimated fatalities exceed 4.5 in any given year or Virginia big-eared bat estimated fatalities exceed 1.0 in any given year, based on the actual number of carcasses found corrected for field biases, or
2. The 3-year running average estimated Indiana bat fatalities exceeds 1.8 or Virginia big-eared bat fatalities exceeds 0.5 (with a 90 percent confidence interval), based on the actual number of surrogate carcasses found corrected for field bias and corrected for the Indiana bat-to-surrogate ratio and the Virginia big-eared bat-to-surrogate ratio as described in the HCP (section 5.0 of appendix C).

K. Changes to the curtailment strategy shall be evaluated through the amendment process identified in section 8.4 of the HCP, and will require written concurrence from and will be developed in consultation with the USFWS, based on results of the monitoring studies and the most current data or study results available at the time (sections 5.1 and 5.2 of HCP appendix C). The USFWS will determine whether additional monitoring may be required by the co-permittees to verify the effectiveness of turbine operational changes following a threshold exceedance event (section 5.1 of HCP appendix C), or following a request for less restrictive operational protocols (section 5.2 of HCP appendix C).

L. The co-permittees are required to conduct annual monitoring throughout the permit term to ensure compliance with HCP measures and permit terms, evaluate effectiveness of avoidance and minimization strategies, and track compliance with authorized levels of take. Monitoring specifications and protocols are described in the HCP (section 5.2.4 and appendix C).

M. Dead or injured birds and bats found incidentally or during postconstruction monitoring will be handled in accordance to HCP procedures (section 3.2.2.2 of HCP appendix C). The permittees will notify USFWS within 24 hours of suspected identification of any injured or dead endangered/threatened species, or bald and golden eagles. All endangered/threatened species, *Myotis* bat and eagle carcasses shall be transferred to USFWS. Unknown *Myotis* carcasses will be identified via genetic testing at the co-permittees' expense, and at a facility acceptable to USFWS.

N. Upon request of the USFWS, the co-permittees shall make available wing and hair tissue samples from each dead bat found during HCP monitoring to support USFWS affiliated research projects.

O. Within 24 months following permit issuance, the co-permittees are required to have fully implemented mitigation projects for Indiana and Virginia big-eared bats in coordination with USFWS and compliant with the project criteria established in the HCP (section 5.3).

P. In the event an acceptable mitigation project cannot be implemented upon permit issuance, the co-permittees are required to establish a conservation fund in the amount of \$785,000 within 90 days following permit issuance, in accordance with the HCP (section 5.3.4 and 6.0).

Q. The co-permittees shall comply with the changed circumstances and adaptive management processes of the HCP (section 8.2 and 8.5 and appendix C).

R. The co-permittees will coordinate with USFWS during siting of the 33 phase II wind turbines to avoid and minimize impacts to covered species and their habitat (e.g., avoiding loss of suitable roost trees, avoiding placing turbines near suitable foraging habitat) in accordance with the HCP (section 1.6). The co-permittees will provide USFWS opportunity for an on-site field visit of turbine locations prior to tree clearing, upon request.

S. The co-permittees will implement all provisions for historic and archaeological resource identification, avoidance, minimization, mitigation, and coordination for the Beech Ridge Energy Phase II Project, as described in the July 2, 2013 memorandum of agreement between the permittee, USFWS, West Virginia State Historic Preservation Office, and Catawba Indian Nation.

T. The co-permittees shall allow USFWS employees, personnel, its agents, or contractors to enter the covered lands at any reasonable time (with advanced notice to each respective co-permittee, and subject to co-permittees' operations and safety restrictions) for the general purposes specified in title 50 Code of Federal Regulations, section 13.21(e)(2) or to carry out compliance monitoring throughout the term of the permit. Nothing within this condition precludes or limits USFWS law enforcement related actions pertaining to this permit or in accordance to applicable Federal and State laws and procedures.

U. The co-permittees are required to annually submit reports on HCP implementation (scientific report, facilities report, off-site conservation report, and changes report) due no later than February 15 of each year (HCP section 4.2 and HCP errata).

V. The co-permittees are required to annually submit an expenditure report due no later than April 30 of each year (HCP section 5.3.4). This report will include written confirmation that funding is available or committed for the full implementation of the HCP for the ensuing year.

W. In addition to the annual personnel training (section 3.2.4.4 of HCP appendix C and HCP errata) and contractor education (HCP section 2.1.4.4), co-permittees are required to inform all authorized officers, employees, contractors, or agents conducting covered activities on the terms of the HCP and this permit on an annual basis. All applicable contracts between co-permittees and authorized agents, where relevant, shall require compliance with the HCP, the IA, and this permit.

X. For the purposes of monitoring, compliance, reporting, and administration of the terms of this permit, except where otherwise specified in the HCP, the contact office for the USFWS shall be: West Virginia Field Office, 694 Beverly Pike, Elkins, West Virginia 26241, telephone: 304-636-6586. The co-permittees shall refer to permit number TE16692B-0 in all correspondence and reports concerning permit activities.