



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

FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

FOWLER RIDGE WIND FARM
700 LOUISIANA STREET
32ND FLOOR
HOUSTON, TX 77002
U.S.A.

2. AUTHORITY-STATUTES
16 USC 1539(a)

REGULATIONS
50 CFR 17.22

50 CFR 13

3. NUMBER
TE95012A-0

4. RENEWABLE
 YES
 NO

5. MAY COPY
 YES
 NO

6. EFFECTIVE
08/01/2014

7. EXPIRES
10/15/2034

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

LARRY FOLKS
MANAGEMENT COMMITTEE REPRESENTATIVE

9. TYPE OF PERMIT

NATIVE ENDANGERED SP. HABITAT CONSERVATION PLAN - E
WILDLIFE

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

Benton County, Indiana

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.

C1. Valid for use by Fowler Ridge Wind Farm LLC, Fowler Ridge II Wind Farm LLC, Fowler Ridge III Wind Farm LLC, Fowler Ridge IV Wind Farm LLC (collectively the Permittees) and the U.S. Fish and Wildlife Service (Service) .

D. Further conditions of authorization are contained in the attached Special Terms and Conditions.

E. General permit 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 accordance with and for the purpose 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.

F. The validity of this permit is also conditioned upon strict observance of all applicable foreign, state, local, tribal, or other federal law.

G. The authorization granted by this permit is subject to compliance with, and implementation of the Fowler Ridge Wind

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

ANNUAL REPORT DUE: 01/31

ISSUED BY

Lynn M Lewis

TITLE

ARD - ECOLOGICAL SERVICES

DATE

03/14/2014

Farm, Benton County, Indiana: Indiana Bat Habitat Conservation Plan (HCP), executed by Fowler Ridge Wind Farm LLC, Fowler Ridge II Wind Farm LLC, Fowler Ridge III Wind Farm LLC, Fowler Ridge IV Wind Farm LLC (collectively the Permittees) and the U.S. Fish and Wildlife Service (Service). This permit and the HCP are binding upon the Permittees, and any authorized officer, employee, contractor, or agent conducting permitted activities.

H. The Permittees will be jointly responsible for implementing the terms and conditions of the HCP, incidental take permit (ITP), the implementing agreement (IA), the SHPO programmatic agreement (PA), and the bird and bat conservation strategy (BBCS). The Permittees will allocate sufficient personnel and resources to ensure the effective implementation of the HCP, the ITP, the IA, the PA, and the BBCS. If any permittee fails to implement the terms and conditions, then this permit will be considered to be in violation for all entities.

I. Acceptance of this permit serves as evidence that the 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.

J. The authority issued to Permittees applies to all of the Permittees' officers, directors, employees, agents, subsidiaries, contractors, and subcontractors. The Permittees are liable for any permit violations that occur by any of the persons and/or entities referenced in this paragraph or by any other persons and/or entities under the control of the Permittees. Permittees shall conduct an educational program to inform all such persons and entities of this permit and the HCP's terms and conditions, and Permittees shall be responsible for supervising their compliance with those terms and conditions. All applicable contracts between Permittees and such persons and entities, where relevant, shall require their compliance with the HCP, the PA, the IA, the BBCS and this permit.

K. The Permittees are authorized under the Endangered Species Act of 1973, as amended (Act), to incidentally take the federally endangered Indiana bat (*Myotis sodalis*), to the extent that take of this species would otherwise be prohibited under section 9 of the Act, and its implementing regulations, or pursuant to a rule promulgated under section 4 (d) of the Act. Take must occur incidental to otherwise lawful activities associated with operation of the Fowler Ridge Wind Farm as described in the HCP, and as conditioned herein. Activities associated with management of mitigation lands are also authorized.

L. The Permittees will provide funding assurance for the HCP in the form of a Surety acceptable to the Service (e.g., an escrow account, bond, or cash). The Surety will provide funds for monitoring, mitigation, annual meetings, reporting, and contingencies for adaptive management and changed circumstances in advance of the time at which they are needed.

M. A copy of this permit must be in possession of the Permittees and designated agents while conducting covered activities.

N. Unless the permit is amended, suspended, revoked, or terminated, the permit duration is 21 years. The ITP should be amended when the permittees significantly modify the covered activities, the Project, or the conservation plan as described in the original HCP.

O. This permit authorizes the take of up to 184 Indiana bats over the 21-year permit term. Adaptive management will be implemented if annual mortality thresholds are exceeded anytime within or at the end of the fall season (HCP section 5.4.2).

P. The Permittees shall ensure that all minimization and mitigation activities are carried out as described in the HCP (sections 5.2 and 5.3), including but not limited to:

- Feathering of turbine blades below a wind cut-in speed of 5.0 meters per second (m/s) from sunset to sunrise

during the Indiana bat fall migratory season (August 1 - October 15)

- Restoration and protection of at least 97 hectare (240 acres) of known Indiana bat summer habitat. Summer habitat mitigation will be in place at least five years before it is needed to mitigate for the impacts of take.
- Protection of a vulnerable population of Indiana bats at a Priority 1 hibernaculum
- Conducting turbine testing to avoid take of Indiana bats (section 2.1.2.7)
- Feathering of turbine blades to prevent spinning immediately upon decommissioning (section 2.1.4.1)

Q. The Permittees shall ensure that all monitoring activities are carried out as described in the HCP (section 5.4) , including but not limited to:

- Take compliance monitoring - annual carcass searches from August 1 to October 15
- Collection of hair and tissue samples from all bat carcasses found during take compliance monitoring
- DNA analysis of older and/or scavenged carcasses of all potential *Myotis* species
- Summer mitigation monitoring
 - o Habitat suitability and colony presence surveys one year prior to acquiring summer habitat
 - o Restoration success/invasive species surveys in years 3 and 7 after summer habitat restoration
 - o Aerial photography survey every other year after summer habitat restoration
 - o Colony persistence monitoring in years 17 and 20 of the permit term
- Winter mitigation monitoring - in the event the IDNR and/or the Service cannot complete scheduled monitoring. Upon any breach in the cave gate security, the Permittees will remedy the breach within 24 hours.

R. The Permittees shall ensure that all reporting requirements are carried out as described in the HCP (section 5.4) , including but not limited to:

- Notification within 24 hours if any eagles or federally listed species casualties are discovered
- Delivery of all *Myotis* species and any unknown bat carcasses to the Service's Bloomington Field Office within seven days of collection, for concurrence or determination of species identification
- Notification within 48 hours of any operational changes made to the facility as a result of adaptive management
- Weekly summary of all carcasses found during take compliance monitoring (Aug. 1 - Oct. 15)
- Submission of a letter, by March 1 of each year, indicating that the Permittees have executed a contract (s) with a qualified party (s) to complete all required monitoring activities
- Annual report submitted to the Service by January 31 that includes:
 - o Results from take compliance monitoring and estimates of bat mortality
 - o Adaptive management changes that were implemented

- o Raw data sheets from take compliance monitoring
- o Spreadsheet showing timing, wind speeds, and temperature at which turbines were operational and feathered from August 1 - October 15
- o Methods and results of summer and winter habitat mitigation

Annual meetings held during Years 1 and 2 and every five years thereafter (Years 6, 11, 16, 21) , and on an as needed basis during in-between years

S. Bat carcasses not used for bias correction trials and all tissue and hair samples collected will be made available to the Service upon request.

T. Permittees will comply with the changed circumstances and adaptive management processes for minimization measures, summer habitat mitigation, and winter habitat mitigation (HCP section 8.4, Table 5.7, Table 5.9 and Table 5.10, respectively) .

U. The Wildlife Incident Reporting System (WIRS) will be in place for the life of the permit (Appendix C of the BBCS) .

V. 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 Service shall be: Bloomington Ecological Services Field Office, 620 S. Walker Street, Bloomington, IN 47401, (812) 334-4261. The Permittees shall refer to permit number TE95012A in all correspondence and reports concerning permit activities.

W. The Federal "No Surprises" Rule, 63 FR 8859 (February 23, 1998; codified at 50 CFR §§ 17.3, 17.22 (b) (5) , 17.32 (b) (5)) provides assurances to the permittees, provided that the permittees have properly implemented the HCP, the ITP, and the IA.