

Bats & Wind in Court



A federal judge has halted construction of a wind-energy project in West Virginia to protect endangered bats. The ruling by U.S. District Court Judge Roger Titus “underscores the growing conflicts between green energy and imperiled wildlife,” the *New York Times* reports.

Beech Ridge Energy, a subsidiary of wind-developer Invenergy, had applied to build a 122-turbine wind farm in Greenbrier County, West Virginia.

The nonprofit Animal Welfare Institute of Washington, D.C., challenged the application, arguing that an initial assessment estimated that the turbine would kill more than 6,500 bats of various species each year. The Indiana myotis, listed as a federally endangered species since 1967, is found in the county.

“This is a case about bats, wind turbines and two federal policies, one favoring the protection of endangered species, and the other encouraging development of renewable energy resources,” the judge said in his ruling. “The two vital federal policies at issue in this case are not necessarily in conflict.”

The *Times* said the case apparently is the first of its kind involving wind energy. However, reporter Todd Woody wrote, it “seems unlikely to derail other projects, as some wind energy advocates have feared, unless the operators ignore endangered species laws.”

Woody said the Endangered Species Act allows project-developers to apply for an “incidental take permit,” which “allows the inadvertent killing of protected wildlife if other measures are taken to protect the animals.” He said such a permit requires elaborate habitat-conservation plans and can take years to obtain.

Invenergy said that it would apply for a permit, the *Times* reports, and Titus restricted the operation of the site’s existing turbines to winter months, when Indiana myotis are hibernating.

According to the *Times*, the company told federal officials that surveys had not detected Indiana bats at the West Virginia site. And, “although officials at the Fish and Wildlife Service had urged the company’s consultants to conduct more extensive surveys,” the newspaper said, “a West Virginia state agency approved the project and construction of the wind turbines began.”

“By a preponderance of the evidence, ... there is a virtual certainty that Indiana bats will be harmed, wounded or killed imminently by the Beech Ridge Project,” the judge wrote in his ruling. “This court has concluded that the only avenue available to defendants to resolve the self-imposed plight in which they now find themselves is to do belatedly that which they should have done long ago: apply for an I.T.P. [incidental take permit].”

Johanna Wald, a senior attorney with the Natural Resources Defense Council (which was not involved in the case), told the *Times*: “We don’t have to choose between having a wind development or other renewable energy projects and complying with the Endangered Species Act. There is potential for wind projects to adversely impact birds and bats, and that’s why it’s so important to choose good sites for these projects.”

All articles in this issue:

► [Singing Bat Detectors](#)

The aerial dogfights between bats and night-flying insects have led to an array of predator-prey

interactions. Bats use ...

► [Kids & Bats in Brazil](#)

Schoolchildren in northeastern Brazil mostly figured bats were villainous creatures – evil, blood-sucking animals that spread ...

► [Bats & Wind in Court](#)

A federal judge has halted construction of a wind-energy project in West Virginia to protect endangered bats. The ruling by U.S. ...