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## How Green is Wind Energy?

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As Congress considers whether to extend the [production tax credit](#) for wind energy in the context of “fiscal cliff” negotiations, [environmentalists](#) are lobbying vigorously, arguing that the PTC creates green jobs and supports [strong communities](#). A casual observer might conclude that enviros are always in favor of wind development, because wind produces electricity with no air pollution and does not contribute to global warming. The real story is more complicated, though. The reality is that decisions about where wind farms should be sited have often proven contentious, pitting environmentalists against state and local governments and the wind industry in particular locations.

Wind turbines produce no greenhouse gases, but they can cause significant harm to migratory birds, bats, and certain endangered species. The harm is caused when the birds and bats fly into spinning blades, or when the construction of roads and turbines disturb nesting and roosting habitat on the ground. In [Altamont Pass](#), California, one of the largest wind farms in the United States has caused the death of thousands of hawks, golden eagles, and other raptors. In the [Appalachian Mountains](#), wind turbines have killed thousands of bats, some of which are rare or endangered species.

Compared to other sources of bat and bird mortality – hunting, flying into buildings, and even cats, for example – the wind turbines are relatively benign. Scientists estimate that wind power may cause the death of as many as 2 million birds/year, whereas buildings may kill some 900 million/year.

Nevertheless, especially for endangered species, wind turbines are considered to be a significant problem, a “stressor” for the species that should be mitigated.

The federal Endangered Species Act (ESA) prohibits any person from “taking” an endangered species. The statute defines “take” broadly as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct.” “Harm” includes modification or degradation of habitat that results in death or injury to an endangered species. The take prohibition is absolute, unless the person who caused the take has obtained a permit from the U.S. Fish and Wildlife Service (USFWS). Violators are potentially subject to civil and criminal penalties. In 2009, the power of the prohibition on take was made clear in a case called [Animal Welfare Institute v. Beech Ridge Energy, LLC](#), in which the federal district court in Maryland enjoined construction of a wind farm pending issuance of a permit from the Service, because of impacts to the endangered Indiana bat. The court based its holding on evidence that construction and operation of the wind farm was likely to harm the Indiana bat.

There have been several citizen suits filed challenging wind farms under the ESA. In addition to the Beech Ridge case, the Sierra Club and other organizations filed suit in February 2012 against USFWS and the Bureau of Land Management challenging a “no effect” finding with respect to endangered species, which was issued in association with construction of an access road across BLM land to the North Sky River wind project in California. In May 2012, environmentalists filed a challenge to the Echanis wind project in Southeast Oregon. In addition, there has been litigation over the Altamont Pass Wind Project.

Even organizations that strongly support wind power stress the importance of proper siting of wind farms, in order to minimize impacts on wildlife. The American Bird Conservancy, for example, has announced a campaign to achieve a mandatory permitting system for wind farms, in order to reduce their impact on migratory birds. On June 26, 2012 American Bird Conservancy (ABC) filed suit in the federal district court for the District of Columbia to compel USFWS to produce monitoring data related to a number of wind farms across the country, which ABC had requested pursuant to the federal Freedom of Information Act.

A coalition of wind companies is working on two large-scale, multi-state [habitat conservation plans](#) to protect birds and bats from mortality and mitigate unavoidable harm through habitat protection and offsets. If approved by the USFWS, the plans will be a practical means of avoiding liability under the ESA and ensuring the long-term conservation of the rare species. These landscape scale plans are a practical solution to conservation that will work for the wind industry and the environmental community, and that should settle any question about whether wind energy is truly “green.”

[endangered species](#)

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