

APPENDIX E: NATIVE ENVIRONMENT CONSERVATION PLAN

NATIVE ENVIRONMENT CONSERVATION PLAN FOR THE CANEY RIVER WIND PROJECT

Summary

Caney River Wind Project, LLC (“Caney River”) intends to construct, own and operate the Caney River Wind Project, a 200 MW wind energy facility located in Elk County, Kansas (the “Project”) and is interested in creating a program for researching, promoting, developing and expanding conservation practices in Kansas and throughout the Midwest to maximize the conservation benefits of wind energy and the Project.

In response to input from Project stakeholders, the Native Environment Conservation Plan (“NECP”) was developed by Caney River and TradeWind Energy, LLC (“TradeWind”), the developer of the Project, in consultation with key Project stakeholders (most notably representatives from the Kansas Department of Wildlife and Parks (“KDWP”), United States Fish and Wildlife Service (“USFWS”), Kansas State University and the Sierra Club) to mitigate for direct and indirect impacts of the Project while enhancing the Project’s inherent environmental and conservation benefits. The NECP is comprised of three primary components: (i) perpetual conservation easements, (ii) wind and wildlife research, and (iii) other related grant offerings to promote implementation of important conservation practices. Caney River has entered into an agreement with the National Fish and Wildlife Foundation (“NFWF”) to manage and implement the NECP which is to be funded primarily by Caney River.

Project Overview

The Project is being constructed on 13,618 acres of private land in Elk County, Kansas, approximately 40 miles east to southeast of Wichita. The Project involves the construction of 111 wind turbine generators (“WTG's”) and associated facilities. Of the 13,618 acres included in the Project approximately 540 acres of vegetation will be physically impacted during construction with a total life of plant facility footprint of about 80 acres. The Project is expected to generate over \$3 million annually of direct economic benefit to the community and has enough generating capacity to meet a demand equivalent to that of 70,000 homes.

PLAN OBJECTIVES

The NECP contemplates but is not limited to the following objectives:

- a. *Conservation of Tallgrass Habitat:*** Protect and enhance tallgrass prairies while promoting vegetative resilience, and restore habitats to benefit the greater prairie chicken, grassland birds, migrating and nesting birds, and other grassland dependent wild-life, using experimental and traditional restoration and conservation strategies most notably the purchase of perpetual conservation easements.
- b. *Wind and Wildlife Research:*** Identify and study the conservation impact on greater prairie chickens and other grassland birds from development activities such as ranch management practices, oil and gas operations, power generation projects (including conventional and renewable), and other commercial and agricultural activities. In addition, study the effect of wind energy development on native prairie and prairie species including greater prairie chicken, lesser prairie chicken, grassland birds, migrating and nesting birds, and other grassland dependent wild-life and identify and monitor activities benefitting the wind energy industry and natural resource agencies.
- c. *Funding of Conservation Grants:*** Partner with appropriate federal and state agencies and private contributors to obtain additional or matching funding as appropriate for the NECP for purposes of providing additional research grants to qualified NECP research grantees (“NECP Grantee”). Grants will likely focus on both greater and lesser prairie chicken with an emphasis on restoration grants to be used to improve grassland and restore prairie habitat in the general vicinity of the Project. More specifically as mitigation for direct and indirect impacts of the project, \$300,000 in grants, from the funds provided by Caney River LLC, will be issued for the intended purpose of restoring approximately 3,000 acres of degraded prairie habitat within the Red Buffalo conservation easement and/or the Project, both of which are within the USFWS Flint Hills Legacy Conservation Area (“LCA”), back to at least the pre-construction (baseline) habitat condition of the project site. For the purpose of clarifying the target for post restoration

habitat quality, acreages within the Red Buffalo Ranch and/or the Project as selected by the Committee, will be cleared of encroaching woody species such that the tall grass prairie content is 80% or greater.

IMPLEMENTATION OF NECP

In order to preserve, restore, and diversify wildlife habitat on the Project and in a large conservation easement area south of the Project, the following conservation and management practices will be implemented:

- a. Conservation of Tallgrass Habitat.** The lands to be targeted by the NECP include:
 - i. Conservation Easement:* A conservation easement on approximately 8,200 acres of the Red Buffalo Ranch near Sedan, KS or on similar properties within the LCA to be held by a Kansas land trust or other suitable third party will be obtained using funds from the NECP.
 - ii. Suitable Habitat:* Conservation easements, conservation partnerships and land acquired in fee title that is suitable for furthering NECP habitat and conservation goals.

- b. Wind and Wildlife Research.** Among possible research opportunities considered in the NECP are the following:
 - i. Rangeland Management Research:* Engage Kansas State University or another qualified research institution to conduct a study of the conservation impact of wind energy development and ranch management practices on tallgrass prairie and grassland birds including the greater prairie chicken. As currently contemplated this will be a four year project that will provide important insights into the potential impacts of wind power development in native prairie habitats in addition to the impacts of annual burning and very intensive early season cattle stocking on greater prairie chickens. Several possible objectives of the research are:

- To further the agency, NGO, wind industry and public's understanding of the impacts of wind energy development in prairie habitats, allowing for a more informed decision making process in the future
- To investigate the impact of wind energy development on the tallgrass prairie and grassland birds including the greater prairie chicken
- To compare the effects of patch-burn grazing between sites with wind power development and undeveloped reference sites
- To investigate patch-burn grazing as a rangeland management technique to improve habitat conditions for grassland bird communities
- To develop a mechanistic understanding of the benefits of patch-burn grazing by examining densities and demographic performance of the grassland bird community, and the movements and foraging activity of three key species of mammalian predators, and
- To compare the performance and economic returns of stocker cattle in patch burn vs. intensive-early stocking grazing systems.

ii. Existing Smoky Hills Wind Project GPC Research: Caney River would assist Smoky Hills Wind Farm, LLC with funding required for ongoing Greater Prairie Chicken lek studies at the Smoky Hills site in Lincoln and Ellsworth Counties in Kansas. Smoky Hills Wind Farm, LLC has six years of pre- and post-construction lek monitoring and is voluntarily collecting this data.

iii Lesser Prairie Chicken Research: Lesser Prairie Chicken are a species of significance both to the environmental community and the wind industry. By leveraging research referenced above and NECP funding research programming could be developed that would increase environmental resource agencies, policy makers, academia and industry understanding of the issue.

c. **Funding.** The funding sources of the NECP elements are listed in **Exhibit A** and are generally described as follows:

- i. *Outside Resources:* Funds from contributions, grants, or gifts received from third parties including federal, state, local and private resources.
- ii. *Fund Matching:* NECP Grantee fund matching.
- iii. *National Fish and Wildlife Foundation Funding:* \$500,000 of matching funds has been committed to the NECP by the foundation for efforts that benefit the lesser prairie chicken.
- iv. *Conservation Easement:* Approximately \$2.8 million of the funding described in item v below will likely go toward the purchase of a perpetual conservation easement on the Red Buffalo Ranch.
- v. *Contributions by Caney River:* Caney River has committed an up-front contribution of \$5.0 million being made within the 1st year of the Project construction commencement date. As contemplated in the current agreement with the NFWF, Caney River will make a \$5 million dollar payment to the NFWF to implement and administer the NECP.
- vi. *Contributions by TradeWind Energy, LLC.:* Provide \$400,000 over 4 years to NFWF to cover its overhead and operational cost associated with implementing the NECP allowing the full Caney River contribution described above to be put to work and be eligible for matching funds.

ADMINISTERING THE NECP

A qualified Non-Governmental Organization (“NGO”) identified by Caney River will be sought to administer the NECP. As referenced in the Summary above, Caney River has entered into an agreement with NFWF to be that administrator and will manage and implement the NECP. Highlights of the NFWF responsibilities include but are not limited to the following:

- Manage all aspects of the NECP. Assemble an advisory committee of experts on native prairie and prairie chickens to provide guidance (the “NECP Advisory Committee” or “Committee”). The sole purpose of the NECP Advisory Committee, which its charter will reflect, is to offer guidance to NFWF. The Committee will be organized and administered to allow maximum participation of the member by reasonably attempting to conduct its business in accordance with the governance related participation constraints of members. More specifically the Committee will provide NFWF guidance as to a) the implementation of the NECP, b) selection of the Caney Legacy Conservation Easement (“CLCE”) properties as described in Amendment 1 to the NECP, c) selection of the 3,000 acres of prairie to be located within the Flint Hills Legacy Conservation Area for restoration as described in Amendment 2 to the NECP and d) the specifics of the research and grants contemplated herein. This committee is expected to be comprised of approximately seven members including a single representative from each of the following entities (as allowed by each entities’ governance rules and interest in participation): 1) Kansas Department of Wildlife and Parks, 2) United States Fish and Wildlife Service 3) TradeWind 4) Caney River 5) NFWF 6) Natural Resources Conversation Service and 7) Representative from a research institution, possibly Kansas State University or University of Kansas.
- Develop and manage a request for proposal (RFP) process associated with the conservation grants described in elements 3a and 3b of **Attachment A**, anticipated to be approximately \$1.075 million.
- Manage a grant of approximately \$1.1 million to Kansas State University or other qualified research institution to research grassland birds including prairie chickens.
- Contribute \$300,000 to the NECP for elements of the grant to Kansas State University or other qualified research institution that benefit the lesser prairie chicken.
- Match lesser prairie chicken grants from Caney River up to \$200,000.
- Apply for federal grants to support the project where appropriate grant programs exist.

- Work to obtain matching contributions associated with the NECP grants.
- Make sure applicable grants have a monitoring and evaluation component (e.g. grants for degraded prairie restoration should include a habitat monitoring and evaluation component).

IMPORTANT NOTES AND DISCLAIMERS

This plan may be amended at any time in the future as needed. This NECP does not authorize violation of federal or state laws or local ordinances, nor does it supercede any requirements to obtain permits or authorizations required by federal, state, or local ordinances. The purpose of this NECP is to protect, restore, manage, and research wildlife and habitats of the native prairie. This plan is not intended to nor does it convey any special status on or otherwise impact in any way, the lawful use of any adjacent or nearby properties.

Exhibit A

PROJECT ELEMENT	FUNDING SOURCE			TOTAL
	TradeWind	NFWF Funds	Caney River	
1. Red Buffalo Conservation Easement			\$2,775,000	\$2,775,000
2. Wind and Wildlife Research - Rangeland Management Research		\$300,000	\$800,000	\$1,100,000
3a. Conservation Grant(s) – e.g. LPC, Smoky Hills GPC		\$200,000 ^b	\$875,000 ^c	\$1,075,000
3b. Conservation Grant(s) - Degraded Prairie Restoration within Project lands and Red Buffalo Ranch conservation easement			\$300,000	\$300,000
4. Caney Legacy Conservation Easement			\$3,000,000	\$3,000,000
5. Degraded Prairie Restoration within the LCA ^e			\$450,000 ^d	\$450,000
6. NFWF Fee	\$400,000 ^a		\$300,000	\$700,000
TOTAL	\$400,000	\$500,000	\$8,500,000	\$9,400,000

^a \$100,000 in 2010, \$75,000 per year for 4 additional years.

^b Contingent upon lesser prairie chicken grants from NECP

^c \$1,125,000 less portion of NFWF fee

^d \$500,000 less portion of NFWF fee

^e This is the degraded prairie restoration described in the 2nd Amendment

1ST AMENDMENT TO THE NATIVE ENVIRONMENT CONSERVATION PLAN

This amendment is intended to amend the Native Environment Conservation Plan (the “NECP”) as provided in Appendix E to the Caney River Draft Environmental Assessment (“DEA”) in accordance with the terms and conditions described herein.

The outline below captures the essential details regarding the acquisition, ownership and administration of the intended 10,000 acres of additional conservation easement(s) (the “Caney Legacy Conservation Easement” or “CLCE”) being added to the commitments already provided for in the NECP.

1. **Location** – The CLCE is to be located within the Legacy Conservation Area and preferably within the Heart of the Flint Hills, the final property selection(s) will be approved by the Committee.
2. **The Properties** - The goal is to preserve the largest, highest quality tallgrass prairie tracts possible. The Committee will develop specific habitat quality criteria (the “Habitat Quality Criteria”).
3. **CLCE Acquisition** – NFWF will issue an RFP(s) for candidate CLCE properties. NFWF’s process is defined in Exhibit A. Qualified land trusts, wildlife agencies, NGOs and individuals alike will be asked to submit proposals. The form of the RFP and the winner(s) thereof will be selected by the Committee subject to the requirements of the Habitat Quality Criteria unless approved otherwise by the Committee.
4. **Funding**
 - a. **Total Contribution** – Subject to the applicable requirements hereof, Caney River will cause to be funded a total of \$3 million to purchase the CLCE (the “Total Contribution”). Additional efforts will be made by NFWF to obtain matching funds to those provided by Caney River in order to maximize the conservation benefits created by the CLCE. In the event the total cost to purchase the CLCE is less than the aforementioned \$3 million, the Committee shall determine if more than 10,000 acres

should be obtained or if such funds are applied to other uses already included in the final NECP.

- b. Administration – All funding for the CLCE purchase will be directed to and managed by NFWF in accordance with the Committee’s guidance. All administrative cost associated with the management of the CLCE acquisition will be drawn from the Total Contribution described above.
 - c. Timing – Subject to the applicable requirements hereof, funding will occur as required to fund the actual CLCE purchases provided such shall be no sooner than commencement of construction of the first Caney River project wind turbine foundation and in no event will the entire amount be funded later than 1 year after the commencement of construction of the first Caney River project wind turbine foundation.
5. **Schedule** – NFWF will, subject to having obtained the necessary Committee approvals as required herein, seek to issue an RFP for the CLCE purchase within 180 days of the start of construction of the first Caney River project wind turbine foundation.
 6. **CLCE Grantee** – Eligible grantees of the CLCE include qualified Kansas land trusts, KDWP, FWS, NFWF, NGOs, local governments or if necessary a nonprofit corporation established by Caney River or Enel Green Power North America on a basis acceptable to the Committee.
 7. **Funding Conditions Precedent** - The funding of the \$3 million described herein as well as the funding of the current Draft NECP by Caney River LLC is conditioned upon 1) a Finding of No Significant Impact (“FONSI”) issuance by TVA and 2) commencement of construction of the first Caney River project wind turbine foundation.
 8. **Amendments** - Any amendments to these provisions of the NECP may only be made by a majority of the Committee.

EXHIBIT A

NFWF RFP Process

NFWF has found that the grant making process can be divided into four segments: deciding on the goals; soliciting proposals; making the decision and administering the grant.

1. Set Criteria/ develop RFP

The first element of a grants process is deciding on the project goal. The more clear and specific the RFP is written the better the proposals that will be received. Clarity and specificity will also result in less time wasted in preparing and reviewing proposals that do not fit the criteria. The goal of the CLCE is to acquire large, high value tracts of high quality tall grass prairie but how is that best expressed in a proposal? Should an initial assessment of floristic quality of the property be required? Is there higher value in being proximate to protected lands? How much value should be placed on the availability of matching funds? The Committee must decide these questions.

2. Solicit Proposals

NFWF has made thousands of grants over the years and we have found that the best way to ensure quality proposals at the lowest cost is to solicit from the largest pool of potential grantees. NFWF will spend a substantial amount of time ensuring that all potential grantees are informed about this opportunity.

3. Decision

The Committee will review proposals and decide upon the grants. Because these are land transactions each one will be unique and there will be a premium on fast and flexible decision making.

4. Administration

NFWF will manage the grants until the easement is acquired and the grant completed.

2ND AMENDMENT TO THE NATIVE ENVIRONMENT CONSERVATION PLAN

This amendment is intended to amend the Native Environment Conservation Plan (the “NECP”) as provided in Appendix E to the Caney River Draft Environmental Assessment (“DEA”) and as previously amended by the 1st Amendment to the NECP, in accordance with the terms and conditions described herein.

Caney River will provide funding for the NECP, in an amount described below, intended to restore approximately 3,000 acres of degraded native prairie, within the USFWS Legacy Conservation Area (“LCA”), back to at least the pre-construction (baseline) habitat condition of the project site. The primary objective of the restoration is to remove or clip invasive woody species from what once was native tallgrass prairie. Other issues such as noxious weeds can and may be addressed however the primary focus of the restoration is the removal of the woody species.

Subject to the conditions precedent described below, Caney River will provide \$500,000 of additional funding to the NECP to accomplish the goals described herein. The funding amount has been increased beyond the amount necessary to physically implement the objective described above and is intended to be inclusive of overhead costs associated with implementing the prairie restoration and potential inefficiencies/uncertainties in the overall restoration process.

The funding of the \$500,000 described herein is subject to 1) a Finding of No Significant Impact (“FONSI”) issuance by TVA and 2) the commencement of construction of the first Caney River project wind turbine foundation.

Based on preliminary discussion with future Committee members and as a result of analysis completed as part of the EA, the quality of the existing native prairie thought to be directly and indirectly affected by the project which will be used to establish the target quality for the restored acres is 80 percent or greater tallgrass prairie content.

The 3,000 acres of prairie restoration will be located within the Flint Hills Legacy Conservation Area with the precise location being determined by the Committee.