

ASDO NEPA DOCUMENT ROUTING SHEET

NEPA Document Number: CX-AZ-110-2008-021

Project Title: **Foresight Wind Energy Hurricane Cliffs Site Testing & Monitoring
Project Area Right-of-Way AZA-34205**

Project Lead: Laurie Ford

Date that any scoping meeting was conducted:

Date that concurrent, electronic distribution for review was initiated: January 18, 2008

Deadline for receipt of responses: **Friday, February 22, 2008**

ID Team/Required Reviewers will be determined at scoping meeting or as a default the following:

Gloria Benson, Tribal Liaison
Diana Hawks, Recreation/Wilderness/VRM
Laurie Ford, Lands/Realty/Minerals
Kitti Jensen/Tom Denniston, Wildlife/T&E
John Herron, Cultural
Lee Hughes, Special Status Plants
Ray Klein, GCPNM Supervisory Ranger
Linda Price, S&G
Bob Sandberg, Range/Vegetation
Richard Spotts, Environmental Coordinator
Ron Wadsworth, Supervisory Law Enforcement
LD Walker, Weed Coordinator
Lorraine Christian, ASFO Manager

Required Recipients of electronic distribution E-mails only (not reminders):

Andi Rogers (E-mail address: arogers@azgfd.gov)
Rick Miller (E-mail address: rmiller@azgfd.gov)
LeAnn Skrzynski (E-mail address: lskrzynski@kaibabpaiute-nsn.gov)

(Ms. Rogers and Mr. Miller are Arizona Game and Fish Department (AGFD) habitat specialists. Ms. Skrzynski is Environmental Program Director for the Kaibab Paiute Tribe (KPT). They may review and/or forward on ASDO NEPA documents to other employees. If a Project Lead receives comments from any AGFD employee on their draft NEPA document, they should include them in the complete set/administrative record and share them with Tom Denniston as the ASDO Wildlife Team Lead. Mr. Denniston will then recommend how these comments should be addressed. If a Project Lead receives comments from any KPT employee, they should include them in the complete set/administrative record and share them with Gloria Benson as the ASDO Native American Coordinator. Ms. Benson will then recommend how these comments should be addressed.)

Discretionary Reviewers:

Kevin Schoppmann, Range

2.4.1 Categorical Exclusion Documentation Format for Actions Other Than Hazardous Fuels and Fire Rehabilitation Actions

NEPA Document Number: CX-AZ-110-2008-021

A. Background

BLM Office: **Arizona Strip Field Office (AZ110)** Lease/Serial/Case File No.: **AZA-34205**

Proposed Action Title/Type: **Foresight Wind Energy Hurricane Cliffs Site Testing & Monitoring Project Area Right-of-Way Grant**

Location of Proposed Action:

Met Tower – Initial met tower footprint would be approximately 1.00 acre within the following described area:

Gila & Salt River Meridian, Mohave County, Arizona
 T. 39 N., R. 9 W.,
 sec. 20, SE1/4SE1/4.

Project Area – The project area would include the following described area:

Gila & Salt River Meridian, Mohave County, Arizona

	Acres
T. 37 N., R. 9 W.,	
sec. 11, N1/2, NE1/4SW1/4, and SE1/4;	520.00
sec. 14, E1/2E1/2 and NW1/4NE1/4.	200.00
T. 38 N., R. 9 W.,	
sec. 2, W1/2SW1/4;	80.00
sec. 3, lots 2 to 4, inclusive, SW1/4NE1/4, S1/2NW1/4, and S1/2;	558.82
sec. 4, lots 1 and 2, SE1/4NE1/4, and NE1/4SE1/4;	158.92
sec. 10, NE1/4, NE1/4NW1/4, and E1/2SE1/4;	280.00
sec. 11, W1/2 and W1/2SE1/4;	400.00
sec. 14, W1/2E1/2 and W1/2;	480.00
sec. 15, NE1/4NE1/4 and SE1/4SE1/4;	80.00
sec. 23, all;	640.00
sec. 24, SW1/4SW1/4;	40.00
sec. 25, W1/2W1/2;	160.00
sec. 26, E1/2 and E1/2W1/2;	480.00
sec. 35, E1/2, NE1/4NW1/4, and E1/2SW1/4;	440.00
sec. 36, SW1/4NW1/4.	40.00
T. 39 N., R. 9 W.,	
sec. 20, NE1/4 and E1/2SE1/4;	240.00
sec. 21, W1/2E1/2 and W1/2;	480.00
sec. 28, all;	640.00
sec. 29, E1/2NE1/4;	80.00
sec. 33, E1/2, E1/2NW1/4, and NE1/4SW1/4;	440.00
sec. 34, SW1/4NW1/4, SW1/4, and W1/2SE1/4.	280.00
 Total Acres	 6717.74

Description of Proposed Action:

Foresight Wind Energy, LLC (Foresight), has made application for a short-term (3 years) right-of-way grant for a wind energy site testing and monitoring project area along the Hurricane Cliffs approximately 10 miles south of the Navajo McCullough power line. Foresight proposes to erect one meteorological assessment (met) tower initially at the location identified above which would affect a footprint of less than one acre (Met 1 – Attachment 2). Site specific archaeological and biological inventories have been completed for the initial met tower site. If, after approximately one year, a positive wind resource is found, up to five additional met towers (six total) could be deployed within the project area. Each met tower would affect a footprint of less than one acre for a total of approximately four acres. Preliminary locations for the additional met towers are identified on the attached location map (Attachment 2), but depending upon the data provided by the first met tower, locations may change within the project area or additional deployment may not take place at all. If additional met towers are determined to be necessary within the project area before the end of the 3-year term, the holder would be required to submit a Plan of Development (POD) and complete the appropriate site specific environmental studies (i.e., cultural, T/E species) as directed by the authorized officer. The wind power project feasibility work would include carrying out a wide range of studies and investigations to determine the suitability of the site for development, construction, and operation of a utility-scale wind power project. A met tower is a structure that continuously measures the wind speed and direction at a given location with anemometers and wind vanes affixed at intervals along the height of the structure. Subsequent towers would only be installed if data from the first met tower indicates there is a positive resource.

Met towers would be the only structures or facilities during the feasibility period authorized by this grant and would consist of standard industry NRG Systems, Inc. tilt-up met test towers up to 197 feet. Met towers operate and record data continuously. Guy wires would be secured in four ordinal directions to two or three anchor points in each direction (eight and 12 anchor spots for the 165 and 197 foot met towers respectively). The guy wires would extend up to 170 feet from the tower. Guy wire anchors are generally screwed into the soil or sometimes a hole is drilled with a compressor if the ground is solid rock. There generally is no poured foundation, installation is temporary, and subsurface disturbance from anchors and winch for erection is usually no greater than 50 square feet per tower. It is not expected that concrete would be needed at the initial met tower site, however, if it becomes necessary, a concrete truck would be brought in via the approved access route. The selected location would require little, if any, clearing of vegetation. Each tower can be erected in one to two days. Towers would not be lighted as the FAA only requires lighting on structures over 200 feet high.

A battery powered data collection box would be located at the base of the met tower. The battery would be solar charged by a small panel of photovoltaic cells, approximately 12 inches by 10 inches in size, which is mounted above the data collection box. The met tower uses cell phone technology to communicate the wind data to the recipient, so ultimately, connecting the device to electricity or communication lines would not be required for the tower to perform its function. No fencing of the tower is proposed at this time, however, fencing may be installed by the applicant at a later date if it is determined necessary for security or other purposes.

Access to the site for installation and maintenance would be by Mohave County Route Nos. 5 and 30 to the Hurricane Cliffs, then south approximately two miles on BLM Road No. 1001. Approximately 1 mile of off-road vehicle travel would be necessary to the proposed site. No road construction or upgrading is proposed. Very little maintenance would be required. Unless there are extenuating circumstances, the SD card located in the data collection box only needs to be replaced every six months. The right-of-way grant may be renewed for a term not to exceed 3 years if a separate right-of-way application and POD is submitted for a wind energy development project prior to the end of the initial term of the site testing and monitoring grant. Once the optimal amount of data is collected, Foresight would dismantle and remove the structure, and return the ground surface to its previous condition including the cross-country travel route.

The project area consists of approximately 6,717.74 acres of BLM administered land along the Hurricane Cliffs. If the results of the studies are positive, Foresight may submit a separate right-of-way application and POD to the BLM for review, analysis, and separate approval for development of a wind farm on the project area. The interest retained by the holder of a site testing and monitoring project area right-of-way grant is only an interest to preclude other wind energy right-of-way applications during the 3-year term of the grant. Other existing uses including, but not limited to, livestock grazing, recreation, etc., would not be restricted and would be allowed to continue throughout the term of the site testing and monitoring project area right-of-way grant. The Terms and Conditions in Attachment 3 would be made a part of the right-of-way grant. An informational letter will be sent to those authorized permittees in the project area and Mohave County.

This right-of-way application would be processed in accordance with Instruction Memorandum No. 2009-043 Wind Energy Development Policy (IM 2009-043) and is subject to the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States and the Record of Decision, Implementation of a Wind Energy Development Program and Associated Land Use Plan Amendments, dated December 15, 2005. Best Management Practices pertaining to wind energy site monitoring and testing from the Record of Decision are identified in Attachment 4. This environmental review does not address wind energy development facilities, as the installation of wind turbines is not proposed during site testing and monitoring.

As stated in IM 2009-043, "There are some concerns regarding the potential for land speculators to obtain right-of-way grants and control valuable wind energy resource areas that would preclude other applicants with serious interests in the potential development of wind energy on public lands. These concerns can be mitigated by applying the applicant qualification requirements of the regulations (43 CFR 2804.12(a)(5) and 43 CFR 2804.26(a)(5)) and requiring certain due diligence provisions in the right-of-way authorization for site testing and monitoring or wind energy development." As stated in the application, Foresight principals have over 80 years experience developing power plants and utility-scale wind power projects and have played the lead role in the development of over 250 megawatts of installed wind capacity. Foresight is actively developing over 2,000 megawatts of wind capacity on private, state, and federal lands throughout the Western U.S. Foresight's Articles of Organization and Operating Agreement were provided with the right-of-way application and are available for review in the case file. The due diligence requirements to be included in the terms and conditions of the right-of-way grant are as follows and are also included in Attachment 4:

1. If monitoring facilities, under a site testing and monitoring right-of-way authorization, have not been installed within 12 months after the effective date of the authorization or consistent with the timeframe of the approved POD, the holder shall provide the BLM good cause as to the nature of any delay, the anticipated date of installation of facilities, and evidence of progress toward site monitoring activities.
2. Failure of the holder to comply with the due diligence terms and conditions of the site testing and monitoring authorization provides the authorized officer the authority to terminate the authorization.

Because the structure is thin, approximately eight inches in diameter at the base, the tower would contribute minimal disturbances to the local view shed. In terms of visibility, the met tower would be barely visible at five miles distance. The met tower would not affect air quality, does not require water to operate, and does not create any noise. No hazardous material as defined per the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and its amendments would be used, transported, or stored within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities.

The rental fee for a right-of-way grant for a site testing and monitoring project area, based on the total public land acreage of the project area included in the right-of-way grant, would be \$1,000 per year or \$1 per acre per year, whichever is the greater. There would be no additional fee for the installation of each met tower or instrumentation facility located within the site testing and monitoring project area.

Site specific wind data from a met tower is absolutely necessary for a commercial wind farm to obtain financing and permission to interconnect into the power grid. The wind data collected would be kept confidential within the Foresight organization. However, sufficient detailed wind data would be required to be provided to the BLM, if a separate right-of-way application for development is submitted, to support the environmental analysis and review of the proposed development. While there is no direct public benefit from erecting a met tower, the results from the met tower may lead to the discovery of a commercially viable wind resource that would provide electrical power. If a commercially viable wind resource is discovered, Foresight would be required to submit a separate right-of-way application for development to retain the interest in the site testing monitoring project area according to direction provided in IM 2009-043.

B. Land Use Plan Conformance

Land Use Plan Name: Arizona Strip Field Office Resource Management Plan

Date Approved/Amended: January 2008

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): Decision MA-LR-06: Individual land use authorizations (ROWs, permits, leases, easements) will be evaluated on a case-by-case basis in accordance with other RMP provisions and NEPA compliance. New land use authorizations will be discouraged within avoidance areas (i.e., ACECs, lands supporting listed species, NHTs, riparian areas, and areas managed to maintain wilderness characteristics) and allowed in such areas only when no reasonable alternative exists and impacts to these sensitive resources can be mitigated. New ROWs will be routed away from high-density listed species' populations and cultural sites, and along the edges of avoidance areas. In addition, mitigation measures may include underground placement of linear ROWs along existing roads in the House Rock Valley area and special protection measures for archaeological resources (See Special Status Species and Cultural decisions).

C. Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 6, Appendix 5.4 E (19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply (see Attachment 1).

D. Signature

Authorizing Official: _____ Date: _____

Name: Lorraine M. Christian

Title: Arizona Strip Field Manager

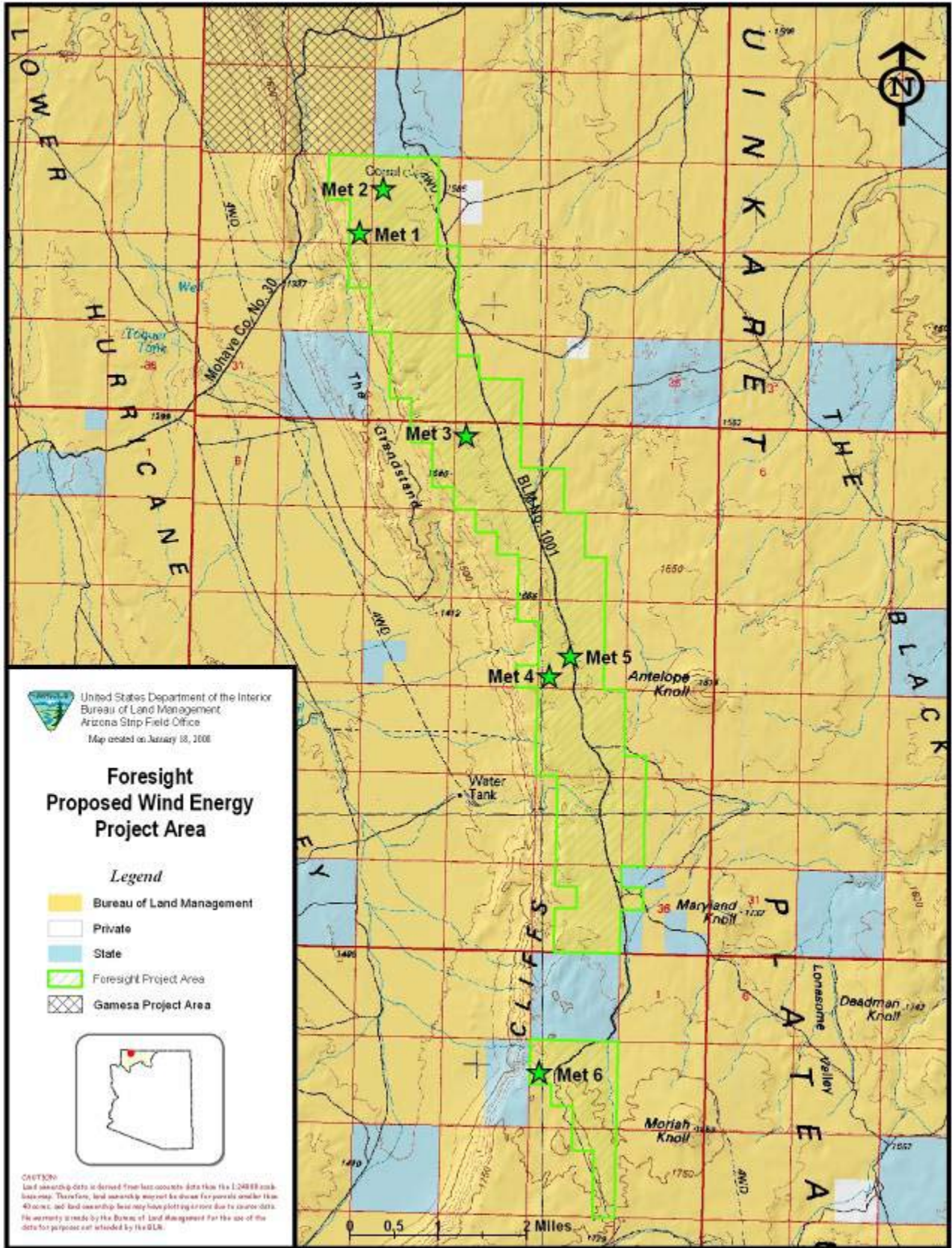
Contact Person

For additional information concerning this CX review, contact Laurie Ford, Team Lead, Lands and Geological Sciences, BLM, Arizona Strip Field Office, 345 East Riverside Drive, St. George, Utah 84790, phone (435)688-3271.

Attachment 1

EXTRAORDINARY CIRCUMSTANCES REVIEW AND CHECKLIST		
<i>IMPORTANT: Appropriate staff should review the circumstances listed below, and comment for concurrence. Rationale supporting the concurrence should be included where appropriate.</i>		
EXTRAORDINARY CIRCUMSTANCES Does the proposed action...	YES/NO & RATIONALE <i>(If Appropriate)</i>	STAFF
1. Have significant impacts on public health and safety?	No	LFord
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?	No	JHerron DHawks KJensen
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	No	LFord
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	No	LFord
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	No	LFord
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	No	LFord
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office?	No	JHerron
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	No	KJensen LHughes
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	No	LFord GBenson
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?	No	LFord
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)?	No	JHerron GBenson
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?	No	LDWalker

Attachment 2 Location Map



United States Department of the Interior
Bureau of Land Management
Arizona Strip Field Office
Map created on January 18, 2008

Foresight Proposed Wind Energy Project Area

Legend

- Bureau of Land Management
- Private
- State
- Foresight Project Area
- Gamesa Project Area



CARTOON:
Land ownership data is derived from tax records data that has a 1:24888 scale. Therefore, land ownership may not be shown for parcels smaller than 40 acres, and land ownership lines may have plotting errors due to source data. The accuracy standards by the Bureau of Land Management for the use of this data for purposes not intended by the BLM.

Attachment 3
Terms and Conditions
Foresight Right-of-Way Grant AZA-34205

Standard Right-of-Way Terms and Conditions:

1. The holder would conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
2. There is potential for the spread of noxious and invasive weeds from equipment contaminated with weed seed and/or biomass. To reduce this potential, the BLM would require the following measures be taken: The holder would thoroughly power wash and remove all vegetative material and soil before transporting equipment to the work site to help minimize the threat of spreading noxious and invasive weeds. This includes trucks, trailers, and all other machinery. The holder would be responsible for the eradication of noxious weeds on disturbed areas within the limits of the work site for the duration of the right-of-way grant. The holder would be responsible for consultation with the authorized officer and local authorities for implementing acceptable weed treatment methods. Any use of chemical treatments would be made using only chemicals approved in BLM's Environmental Impact Statement, by a state certified applicator who would abide by all safety and application guidelines as listed on the product label and Material Data Safety Sheet (MSDS). Any reclamation efforts requiring seeding would be done with certified, weed-free native seed.
3. Use of herbicides would comply with the applicable Federal and state laws. Herbicides would be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of herbicides, the holder would obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, weed(s) to be controlled, method of application, location of storage and mixing areas, method of cleansing and disposing of containers, and any other information deemed necessary by the authorized officer. Emergency use of herbicides would be approved in writing by the authorized officer prior to such use.
4. Construction sites would be maintained in a sanitary condition at all times; waste materials at those sites would be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
5. At no time would vehicle or equipment fluids be dumped on public lands. All accidental spills must be reported to BLM and be cleaned up immediately, using best available practices and requirements of the law. All spills of federally or state listed hazardous materials which exceed the reportable quantities would be promptly reported to the appropriate state agency and the Arizona Strip District.
6. Any surface or sub-surface archaeological, historical, or paleontological remains discovered and not covered in the CRPR during construction, maintenance, or use would be left intact; all work in the area would stop immediately and the BLM authorized officer for the Arizona Strip Field Office (435-688-3323) would be notified immediately. Commencement of work would be allowed upon clearance by the BLM authorized officer in consultation with the BLM Archaeologist.
7. An additional archaeological survey would be required in the event additional met towers are added to the project after the initial survey. Any such survey would be completed prior to commencement of the project.

8. If in connection with operations any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder would stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the BLM authorized officer. The holder would continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.
9. Prior to termination of the right-of-way, the holder would contact the authorized officer to arrange a pre-termination conference. This conference would be held to review the termination provisions of the grant.

Additional Right-of-Way Terms and Conditions:

1. If installation of additional met towers is determined to be necessary within the project area before the end of the 3-year term, the holder would submit a POD for each tower and complete the appropriate site specific environmental inventories as determined by the authorized officer. Additional terms and conditions may be added to the right-of-way grant as a result of recommendations from site-specific inventories.
2. Cross-country travel to the met tower site would be allowed only along the approved route on the attached map for installation and dismantling purposes. Immediately following completion of met tower installation, the holder would obliterate all visible evidence of vehicle tracks within sight distance of the existing BLM Road No. 1001 by hand raking. All subsequent trips to the met tower would be either by walking or horseback.
3. The holder would rehabilitate all met tower locations and all cross-country routes upon termination of the right-of-way as directed by the authorized officer, which may include using a harrow or ripper to break up compacted soils and seeding.
4. The holder would use only non-reflective materials for the construction of the met tower, including guy wires and associated equipment not subject to safety requirements.
5. The holder would install PVC pipe to skirt the guy wires at ground level to increase visibility for mule deer, bighorn sheep, and pronghorn.
6. The holder would install Bird Flight Diverters, similar to the attached, along the length of met tower guy wires at 3-foot intervals.
7. To record bat activity by season and develop a species list, the holder would install an ultrasonic bat detector directly on the second met tower installed and at least one third of all additional met towers as directed by the authorized officer.
8. To document raptor, passerine, and California condor use in the vicinity of the project area, provide sufficient data for meaningful before and after comparisons, and avoid adverse effects to migratory birds (Migratory Bird Treaty Act), the holder would initiate point count bird surveys at all met tower(s) and a raptor/condor survey along the Hurricane Cliffs upon installation of additional met towers as directed by the authorized officer. These surveys would be initiated upon installation of a second met tower.
9. Met towers would be a minimum distance of 164 feet from the ridgelines of the mesas.

California Condor Conservation Measures:

CC-1.A. Immediately prior to the start of an authorized or permitted project, BLM would contact personnel monitoring California Condor locations and movements on the Arizona Strip to determine the locations and status of condors in or near the project area.

CC-1.B. BLM would request that permit holders notify the BLM wildlife team lead or condor biologist if California Condors visit the worksite while permitted activities are underway. BLM may encourage permit holders to modify, relocate, or delay project activities where adverse affects to condors may result.

CC-1.C. Where condor nesting activity is known within 0.5 miles of permitted or authorized activities that include operation of heavy machinery, BLM may encourage the operator to avoid use of the equipment during the active nesting season (February 1- November 30), or as long as the nest is viable.

CC-3.A. The project site would be cleaned up at the end of each day the work is being conducted (e.g., trash removed, scrap materials picked up) to minimize the likelihood of condors visiting the site. BLM staff may conduct site visits to the area to ensure adequate clean-up measures are taken.

CC-3.C BLM would implement the protective measures for California Condors that are contained in the March 2004 "Recommended Protection Measures for Pesticide Applications in The Southwest Region of the USFWS."

Renewal:

1. The right-of-way may be renewed for a term not to exceed 3 years if a separate right-of-way application and POD is submitted for a wind energy development project prior to the end of the initial term of the site testing and monitoring grant. A request for renewal authorization would be submitted 120 days before the end of the term of the grant (43 CFR 2807.22).
2. The holder is advised that appropriate environmental and geotechnical studies and inventory information should be collected in conjunction with the wind energy site testing and monitoring studies during the 3-year term of the initial grant. The holder would be required to submit a study design strategy to the BLM authorized officer for review and comment in advance to ensure the environmental studies are of sufficient detail and scope for the project area. The data gathered is an integral part of preparing the initial POD for a proposed wind energy development if an application is submitted in the future. Developers should begin the required environmental studies during the initial grant period and not wait until an application is submitted for renewal of the site testing and monitoring authorization.
3. The holder would be required to submit, prior to the end of the initial term of the site testing and monitoring grant, a separate right-of-way development application and POD to retain the interest in the project area. A pre-application meeting would be scheduled with the BLM authorized officer prior to submittal to discuss the environmental and sensitive issues that may be associated with the proposed wind energy development project, processing timeframes and environmental analysis and review procedures, cost recovery requirements, and potential mitigation measures that could be included in the POD. The POD must be of sufficient detail to provide the basic information necessary to begin the environmental analysis and review process for the proposed wind energy development project.

Bond:

1. A bond, in the amount of \$2,000 per meteorological tower, would be furnished by the holder prior to initiating any surface disturbance associated with the construction of each meteorological tower. This bond must be maintained in effect until removal of improvements and restoration of the right-of-way has been accepted by the authorized officer.
2. The holder agrees that all monies deposited with the authorized officer as security for holder's performance of the terms and conditions of this grant may, upon failure on the holder's part to fulfill any of the requirements herein set forth or made a part hereof, be retained by the United States to be applied as far as may be needed to the satisfaction of the holder's obligations assumed hereunder, without prejudice whatever to any other rights and remedies of the United States.

Attachment 4
Best Management Practices and Due Diligence Requirements
Foresight Right-of-Way Grant AZA-34205

Best Management Practices pertaining to site monitoring and testing from the Record of Decision, Implementation of a Wind Energy Development Program and Associated Land Use Plan Amendments, dated December 15, 2005, are as follows:

1. The area disturbed by installation of meteorological towers (i.e., footprint) shall be kept to a minimum.
2. Existing roads shall be used to maximum extent feasible.
3. Meteorological towers shall be located to avoid sensitive habitats or areas where ecological resources known to be sensitive to human activities (e.g., prairie grouse) are present. Installation of towers shall be scheduled to avoid disruption of wildlife reproductive activities or other important behaviors.
4. Meteorological towers installed for site monitoring and testing shall be inspected periodically (at least every 6 months) for structural integrity.
5. Unexpected discovery of cultural or paleontological resources during construction shall be brought to the attention of the responsible BLM authorized officer immediately. Work shall be halted in the vicinity of the find to avoid further disturbance to the resources while they are being evaluated and appropriate mitigation measures are being developed.
6. The BLM will prohibit the disturbance of any population of federal listed plant species.
7. A study design strategy shall be required for any environmental studies initiated or baseline data collected during the site testing and monitoring period. The operator shall submit the study design strategy to the BLM authorized officer for review. This would be required upon installation of a second met tower prior to initiating the required point count bird and raptor/condor surveys and installation of the ultrasonic bat detector (Attachment 3; Additional Right-of-Way Terms and Conditions Nos. 7 and 8).

As provided by IM 2009-043, the site testing and monitoring authorization shall include a due diligence requirement for installation of facilities consistent with an approved Plan of Development. The following due diligence requirements will be included in the terms and conditions of the site testing and monitoring right-of-way grant:

1. If monitoring facilities, under a site testing and monitoring right-of-way authorization, have not been installed within 12 months after the effective date of the authorization or consistent with the timeframe of the approved Plan of Development, the holder shall provide the BLM good cause as to the nature of any delay, the anticipated date of installation of facilities, and evidence of progress toward site monitoring activities.
2. Failure of the holder to comply with the due diligence terms and conditions of the site testing and monitoring authorization provides the authorized officer the authority to terminate the authorization (43 CFR 2807.17).

DECISION MEMORANDUM
Foresight Wind Energy Hurricane Cliffs Site Testing & Monitoring Project Area
Right-of-Way Grant AZA-34205
CX-AZ-110-2008-021

U.S. Department of the Interior
Bureau of Land Management
Arizona Strip Field Office

Approval and Decision

Based on a review of the project described in the attached Categorical Exclusion documentation and field office staff recommendations, I have determined that the project is in conformance with the Arizona Strip Field Office Resource Management Plan (approved 2008) and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed with the following stipulations/mitigation measures.

Standard Right-of-Way Terms and Conditions:

1. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
2. There is potential for the spread of noxious and invasive weeds from equipment contaminated with weed seed and/or biomass. To reduce this potential, the BLM requires the following measures be taken: The holder will thoroughly power wash and remove all vegetative material and soil before transporting equipment to the work site to help minimize the threat of spreading noxious and invasive weeds. This includes trucks, trailers, and all other machinery. The holder shall be responsible for the eradication of noxious weeds on disturbed areas within the limits of the work site for the duration of the right-of-way grant. The holder is responsible for consultation with the authorized officer and local authorities for implementing acceptable weed treatment methods. Any use of chemical treatments will be made using only chemicals approved in BLM's Environmental Impact Statement, by a state certified applicator who will abide by all safety and application guidelines as listed on the product label and Material Data Safety Sheet (MSDS). Any reclamation efforts requiring seeding will be done with certified, weed-free native seed.
3. Use of herbicides shall comply with the applicable Federal and state laws. Herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of herbicides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, weed(s) to be controlled, method of application, location of storage and mixing areas, method of cleansing and disposing of containers, and any other information deemed necessary by the authorized officer. Emergency use of herbicides shall be approved in writing by the authorized officer prior to such use.
4. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
5. At no time shall vehicle or equipment fluids be dumped on public lands. All accidental spills must be reported to BLM and be cleaned up immediately, using best available practices and requirements of the law. All spills of federally or state listed hazardous materials which exceed the reportable quantities shall be promptly reported to the appropriate state agency and the Arizona Strip District.

6. Any surface or sub-surface archaeological, historical, or paleontological remains discovered and not covered in the CRPR during construction, maintenance, or use shall be left intact; all work in the area shall stop immediately and the BLM authorized officer for the Arizona Strip Field Office (435-688-3323) shall be notified immediately. Commencement of work shall be allowed upon clearance by the BLM authorized officer in consultation with the BLM Archaeologist.
7. An additional archaeological survey shall be required in the event additional met towers are added to the project after the initial survey. Any such survey would have to be completed prior to commencement of the project.
8. If in connection with operations any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the BLM authorized officer. The holder shall continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.
9. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a pre-termination conference. This conference will be held to review the termination provisions of the grant.

Additional Right-of-Way Terms and Conditions:

1. If installation of additional met towers is determined to be necessary within the project area before the end of the 3-year term, the holder shall submit a Plan of Development for each tower and complete the appropriate site specific environmental inventories as determined by the authorized officer. Additional terms and conditions may be added to the right-of-way grant as a result of recommendations from site-specific inventories.
2. Cross-country travel to the met tower site is allowed only along the approved route on the attached map for installation and dismantling purposes. Immediately following completion of met tower installation, the holder shall obliterate all visible evidence of vehicle tracks within sight distance of the existing BLM Road No. 1001 by hand raking. All subsequent trips to the met tower shall be either by walking or horseback.
3. The holder shall rehabilitate all met tower locations and all cross-country routes upon termination of the right-of-way as directed by the authorized officer, which may include using a harrow or ripper to break up compacted soils and seeding.
4. The holder shall use only non-reflective materials for the construction of the met tower, including guy wires and associated equipment not subject to safety requirements.
5. The holder shall install PVC pipe to skirt the guy wires at ground level to increase visibility for mule deer, bighorn sheep, and pronghorn.
6. The holder shall install Bird Flight Diverters, similar to the attached, along the length of met tower guy wires at 3-foot intervals.
7. To record bat activity by season and develop a species list, the holder shall install an ultrasonic bat detector directly on the second met tower installed and at least one third of all additional met towers as directed by the authorized officer.

8. To document raptor, passerine, and California condor use in the vicinity of the project area, provide sufficient data for meaningful before and after comparisons, and avoid adverse effects to migratory birds (Migratory Bird Treaty Act), the holder shall initiate point count bird surveys at all met tower(s) and a raptor/condor survey along the Hurricane Cliffs upon installation of additional met towers as directed by the authorized officer. These surveys shall be initiated upon installation of a second met tower.
9. Met towers shall be a minimum distance of 164 feet from the ridgelines of the mesas.

California Condor Conservation Measures:

- CC-1.A.** Immediately prior to the start of an authorized or permitted project, BLM will contact personnel monitoring California Condor locations and movements on the Arizona Strip to determine the locations and status of condors in or near the project area.
- CC-1.B.** BLM will request that permit holders notify the BLM wildlife team lead or condor biologist if California Condors visit the worksite while permitted activities are underway. BLM may encourage permit holders to modify, relocate, or delay project activities where adverse affects to condors may result.
- CC-1.C.** Where condor nesting activity is known within 0.5 miles of permitted or authorized activities that include operation of heavy machinery, BLM may encourage the operator to avoid use of the equipment during the active nesting season (February 1- November 30), or as long as the nest is viable.
- CC-3.A.** The project site will be cleaned up at the end of each day the work is being conducted (e.g., trash removed, scrap materials picked up) to minimize the likelihood of condors visiting the site. BLM staff may conduct site visits to the area to ensure adequate clean-up measures are taken.
- CC-3.C** BLM will implement the protective measures for California Condors that are contained in the March 2004 “Recommended Protection Measures for Pesticide Applications in The Southwest Region of the USFWS.”

Renewal:

1. The right-of-way may be renewed for a term not to exceed 3 years if a separate right-of-way application and Plan of Development is submitted for a wind energy development project prior to the end of the initial term of the site testing and monitoring grant. A request for renewal authorization must be submitted 120 days before the end of the term of the grant (43 CFR 2807.22).
2. The holder is advised that appropriate environmental and geotechnical studies and inventory information should be collected in conjunction with the wind energy site testing and monitoring studies during the 3-year term of the initial grant. The holder is required to submit a study design strategy to the BLM authorized officer for review and comment in advance to ensure the environmental studies are of sufficient detail and scope for the project area. The data gathered is an integral part of preparing the initial Plan of Development for a proposed wind energy development if an application is submitted in the future. Developers should begin the required environmental studies during the initial grant period and not wait until an application is submitted for renewal of the site testing and monitoring authorization.

3. The holder is required to submit, prior to the end of the initial term of the site testing and monitoring grant, a separate right-of-way development application and Plan of Development to retain the interest in the project area. A pre-application meeting shall be scheduled with the BLM authorized officer prior to submittal to discuss the environmental and sensitive issues that may be associated with the proposed wind energy development project, processing timeframes and environmental analysis and review procedures, cost recovery requirements, and potential mitigation measures that could be included in the Plan of Development. The Plan of Development must be of sufficient detail to provide the basic information necessary to begin the environmental analysis and review process for the proposed wind energy development project.

Bond:

1. A bond, in the amount of \$2,000 per meteorological tower, shall be furnished by the holder prior to initiating any surface disturbance associated with the construction of each meteorological tower. This bond must be maintained in effect until removal of improvements and restoration of the right-of-way has been accepted by the authorized officer.
2. The holder agrees that all monies deposited with the authorized officer as security for holder's performance of the terms and conditions of this grant may, upon failure on the holder's part to fulfill any of the requirements herein set forth or made a part hereof, be retained by the United States to be applied as far as may be needed to the satisfaction of the holder's obligations assumed hereunder, without prejudice whatever to any other rights and remedies of the United States.

Best Management Practices:

1. The area disturbed by installation of meteorological towers (i.e., footprint) shall be kept to a minimum.
2. Existing roads shall be used to maximum extent feasible.
3. Meteorological towers shall be located to avoid sensitive habitats or areas where ecological resources known to be sensitive to human activities (e.g., prairie grouse) are present. Installation of towers shall be scheduled to avoid disruption of wildlife reproductive activities or other important behaviors.
4. Meteorological towers installed for site monitoring and testing shall be inspected periodically (at least every 6 months) for structural integrity.
5. Unexpected discovery of cultural or paleontological resources during construction shall be brought to the attention of the responsible BLM authorized officer immediately. Work shall be halted in the vicinity of the find to avoid further disturbance to the resources while they are being evaluated and appropriate mitigation measures are being developed.
6. The BLM will prohibit the disturbance of any population of federal listed plant species.
7. A study design strategy shall be required for any environmental studies initiated or baseline data collected during the site testing and monitoring period. The operator shall submit the study design strategy to the BLM authorized officer for review. This would be required upon installation of a second met tower prior to initiating the required point count bird and raptor/condor surveys and installation of the ultrasonic bat detector (Additional Right-of-Way Terms and Conditions Nos. 7 and 8).

Due Diligence Requirements:

1. If monitoring facilities, under a site testing and monitoring right-of-way authorization, have not been installed within 12 months after the effective date of the authorization or consistent with the timeframe of the approved Plan of Development, the holder shall provide the BLM good cause as to the nature of any delay, the anticipated date of installation of facilities, and evidence of progress toward site monitoring activities.
2. Failure of the holder to comply with the due diligence terms and conditions of the site testing and monitoring authorization provides the authorized officer the authority to terminate the authorization (43 CFR 2807.17).

Administrative Review or Appeal Opportunities

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the attached Form 1842-1. If an appeal is taken, your notice of appeal must be filed at the Arizona Strip Field Office, 345 East Riverside Drive, St. George, Utah 84790, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

In accordance with 43 CFR 2801.10(b), this decision remains in effect pending appeal unless a stay is granted. If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Office of the Solicitor (Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Court House #404, 401 West Washington Street SPC44, Phoenix, AZ 85003-2151) (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

Standards for Obtaining a Stay

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Lorraine M. Christian, Field Manager

Date

Attachment: Form 1842-1