

2. Right-of-Way (ROW) Grant

2. Right-of-Way Grant

Cotterel Wind Power Project

Windland, Inc. (Windland)

IDI-33676

August 2006

FORM 2800-14
(August 1985)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT

SERIAL NUMBER IDI-33676

1. a. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
2. Nature of Interest:
 - a. By this instrument, the holder:

Windland, Incorporated (Cotterel Mountain Wind Power, LLC)
7669 W. Riverside Dr. #102
Boise, ID 83714

receives a right to construct, operate, maintain, and terminate a *WIND ENERGY PROJECT containing wind turbines, concrete pad mounted transformers, wind data collection (meteorological) towers, roads, buried power distribution and communications lines, an overhead power transmission line, a power sub-station, an operations and maintenance building, and temporary facilities such as a concrete batch plant, a portable rock crusher, turbine component lay down areas, staging areas, crane assembly areas, and an office trailer, as described in the attached Plan of Development (POD)*, on public lands described as follows:

See Attached Legal Description (Exhibit "A") and Location Map (Exhibit "B")

- b. The right-of-way area granted herein is divided into three components, main access roads, power transmission lines, and turbine strings. The area granted for the main access roads is 30 feet wide, 24,242 feet in length, and contains 16.7 acres, more or less. The area granted for the overhead power transmission lines is 100 feet wide, 33,264 feet in length, and contains 76.4 acres, more or less. The area granted for the turbine strings, which contains facilities as described above and in the attached POD, is approximately 2,640 feet wide, 73,920 feet in length, and contains 4,500 acres, more or less.

- c. This instrument shall terminate on December 31, 2036, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. At the discretion of the Authorized Officer this instrument may be renewed. Authorized Officer means any employee of the Department of the Interior to whom has been delegated the authority to perform the duties described in 43 CFR Part 2800. In respect to this grant, this authority has been delegated to the Field Manager, Burley Field Office, Bureau of Land Management. If renewed, the right-of-way grant shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the Authorized Officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before, or on account of, the expiration, renewal, early relinquishment, abandonment, or termination of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the Authorized Officer unless specifically exempted from such payment by statute or regulation.

Per BLM's Wind Energy Policy, the rental fee for a commercial wind energy development right-of-way grant on public land is established at \$2,365 per megawatt of the total anticipated installed capacity of the wind energy project on public land based on the approved POD, a capacity factor of 30 percent, a royalty of 3 percent, and an average purchase price of \$0.03 per kilowatt hour. The rental fee is a fixed annual Bureauwide rent based on the following formula:

Annual rent = (Anticipated total installed capacity in kilowatts as identified in the approved POD) x (8760 hours per year) x (30 percent capacity factor) x (3 percent royalty) x (\$0.03 average price per kilowatt hour)

Example for one megawatt (1,000 kW) of anticipated total installed capacity on public land:

Annual rent = (1,000 kW) x (8760 hours) x (0.30 capacity) x (0.03 royalty) x (\$0.03 per kWh) or \$2,365 per megawatt of anticipated total installed capacity on public land.

The annual rental fee will be phased in as follows upon the start of commercial operations of the project based on the actual installed capacity:

First year - 25 percent of the total rental fee or \$591 per megawatt;
Second year - 50 percent of the total rental fee or \$1,182 per megawatt;
Third year -100 percent of the total rental fee or \$2,365 per megawatt.

The rental fee is paid annually, in advance, on a calendar year basis consistent with the regulations (43 CFR 2806.12). Any separate linear right-of-way authorizations issued for off-site facilities to support the wind energy project, such as electrical transmission lines, will be subject to the linear right-of-way rental provisions of the regulations (43 CFR 2806.20).

4. Terms and Conditions:

- a. This grant is issued subject to the holder's compliance with all applicable laws and regulations and, in particular, with the regulations contained in Title 43 Code of Federal Regulations Part 2800.
- b. Upon grant termination by the Authorized Officer, all improvements shall be removed from the public lands within 360 days, or otherwise disposed of as provided in paragraph (4)(d), or as directed by the Authorized Officer.
- c. The grant shall, at a minimum, be reviewed by the Authorized Officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. The grant however, may be reviewed at any time deemed necessary by the Authorized Officer in accordance with the regulations (43 CFR 2805.15).
- d. The Plan of Development and its associated Environmental Protection Measures, including the Cotterel Mountain Annual Sage-grouse Monitoring Protocol, Cotterel Mountain Avian Fatality Monitoring Protocol, and Cotterel Mountain Raptor Nesting and Migration Monitoring Protocol, are incorporated in and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. The ROW grant stipulations (Appendix A to the ROW grant), include legal descriptions, maps, and designs, set forth in Exhibit(s) “A”, “B”, “C”, and “D” respectively, dated August 2006, attached hereto, are incorporated in and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- f. Failure of the holder to comply with applicable law or regulations or any terms, conditions, or stipulations of this right-of-way grant shall constitute grounds for suspension or termination thereof.

- g. The holder shall perform all operations in a good and workmanlike manner as described in the Plan of Development so as to ensure protection of the environment and the health and safety of the public.
- h. The right-of-way grant may be assigned consistent with the provisions of the regulations (43 CFR 2807.21), but all assignments are subject to approval by the BLM Authorized Officer. In addition, the qualifications of all assignees must comply with the requirements of the regulations (43 CFR 2804.12(a)(5) and 43 CFR 2804.26(a)(5)). A partial assignment of the grant shall not be approved if such action would hinder the BLM management of the grant or the associated public lands.

IN WITNESS WHEREOF, the undersigned agrees to the foregoing provisions of this right-of-way grant.

WINDLAND, INC.

U.S. DEPARTMENT OF THE INTERIOR

(Signature of Holder)

(Signature of Authorized Officer)

(Title)

(Title)

(Date)

(Date)

