# United States Department of the Interior
BUREAU OF LAND MANAGEMENT
El Centro Field Office
1661 S. 4th Street
El Centro, CA 92243
www.blm.gov/ca/elcentro


July 2, 2014

*In Reply Refer To:*
CACA-054397/CACA-054397-01/CACA-054398/CACA-054399/2800(P)
CA670.20

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**

DECISION

| | | |
|---|---|---|
| Rany Raviv | | Right-of-Way Grants |
| Vice President, Business Development and M&A | : | CACA-054397 |
| Iberdrola Renewables, Inc. | : | CACA-054397-01 |
| 1125 NE Couch St., Suite 700 | : | CACA-054398 |
| Portland, Oregon 97209 | | CACA-054399 |

Right-of-Way Grants CACA-054397, CACA-054397-01, CACA-054398 & CACA-054399 Issued

Enclosed are your copies of right-of-way (ROW) grants, serial numbers CACA-054397, CACA-054397-01, CACA-054398, CACA-054399, for an access road, two temporary 2-acre laydown yards, an overhead collector line, and an underground collector line, respectively. These grants were executed by the BLM on June 30, 2014.

The pro-rated rental for each ROW is based upon the acreage calculations and linear rent schedule for the 2014 calendar year. These rental payments have been determined to be $9,475.50 for CACA-054397, $1,579.25 for CACA-054397-01, $11,315.33 for CACA-054398, and $23,195.23 for CACA-054399. The BLM has received your advance rental payments for the remainder of 2014. All subsequent rental billings will be due at the beginning of the calendar year. Future billings will be based on the rent schedule in effect at that time.

The performance bond for each ROW grant has not yet been received and is required prior to the issuance of a notice to proceed and the start of physical construction for any of the ROW grants. The BLM has determined that the bond would be $166,204.99 for CACA-054397, $27,700.84 for CACA-054397-01, $70,498.64 for CACA-054398, and $50,346.28 for CACA-054399. These bonds may be either from an approved bonding company, by cash, or by a certified check.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary of the Interior, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office and the Office of the Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-

1712, Sacramento, CA 95825. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulations 43 CFR §2801.10 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 appropriate Office of the Solicitor (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.

Standards for Obtaining a Stay

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:

(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.

If you have any questions please contact Carrie Simmons, BLM Assistant Field Manager-Resources, at (760) 337-4437.

Thomas F. Zale
Field Manager

Enclosures (5):
Right-of-Way Grants CACA-054397, CACA-054398, CACA-054399, and CACA-054397-01
BLM Appeals Form 1842-1

Issuing Office
El Centro Field Office

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

SERIAL NUMBER CACA – 054397

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1. As approved by the Record of Decision for the Tule Wind Project - Ancillary Facilities on Public Lands Supporting the Reduced Ridgeline Component dated January 17, 2014, a Right-Of-Way (ROW) grant is hereby issued pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761 et seq.) and the Bureau of Land Management right-of-way regulations (43 CFR Part 2800) and amendments thereto.

2. Nature of Interest:

a. By this instrument, the holder:

Tule Wind LLC a subsidiary of Iberdrola Renewables, Inc.
1125 NW Couch Street, Suite 700
Portland, Oregon 97209

receives a right to use and occupy the following described public lands to construct, operate, maintain, and decommission ancillary facilities related to the Reduced Ridgeline Component of the Tule Wind Project as described in the approved Plan of Development (POD) dated April, 2013 incorporated herein:

San Bernardino Meridian
T. 16 S., R.6 E.,
sec. 4, lots 1-2, S½NE¼, E½SE¼;
sec. 9, E½;
sec. 10, SE¼SE¼;
sec. 15, N½NW¼SW¼, S½NW, SE¼NE¼NW¼, NW¼NE¼.

Containing 24 acres more or less

b. The project authorized herein consists of: An access road connecting the authorized Tule Wind Valley Component to the Reduced Ridgeline Component. This access road will be 5.5 miles in length, with a temporary width of 36 feet during construction of the wind farm, and a permanent width of 20 feet. (See attached map, Exhibit A.)

c. This instrument shall expire on December 31, 2043 unless, prior thereto, it is relinquished, abandoned, or terminated pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

d. This instrument may be renewed by the Authorized Officer. The holder is required to submit an application for renewal at least 120 calendar days prior to the expiration date of this instrument. The Authorized Officer will review the application for renewal to ensure the holder is complying with the terms, conditions, and stipulations of this instrument and applicable laws and regulations. If renewed, the right-of-way 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 renewal, expiration, relinquishment, abandonment, or termination of this instrument, 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 renewal, expiration, relinquishment, abandonment, or termination of this authorization.

f. The Authorized Officer retains the right of access to the lands included within the right-of-way at any time and may enter any facility on the right-of-way in accordance with 43 CFR 2805.15(a). The holder shall pay monitoring fees in accordance with 43 CFR 2805.16 for the reasonable costs incurred in the inspection and monitoring of construction, operation, maintenance, and decommissioning of the right-of-way.

g. This instrument is issued subject to valid existing rights in accordance with 43 CFR 2805.14.

3. Rental:

a. For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management the fair market value rental of the right-of-way, as determined by the Authorized Officer. Provided, however, that the rental may be adjusted by the Authorized Officer, whenever necessary, to reflect changes in fair market value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices. The rental provisions of this authorization may also be modified consistent with the provisions of any regulatory changes or pursuant to the provisions of any new or revised statutory authorities. Rent will be paid on an annual basis consistent with the regulations.

4. Bond:

a. A Performance and Reclamation bond shall be required from the holder to ensure compliance with the terms and conditions of this instrument. The bond must be maintained in effect until

removal of improvements and restoration of the right-of-way has been accepted by the Authorized Officer. Acceptable bond instruments include cash, cashier's or certified check, certificate or book entry deposits, negotiable U.S. Treasury securities (notes, bills, or bonds) equal in value to the bond amount, surety bonds from the approved list of sureties (U.S. Treasury Circular 570) payable to the Bureau of Land Management (BLM), irrevocable letters of credit payable to the BLM issued by financial institutions that have the authority to issue letters of credit and whose operations are regulated and examined by a federal agency, or a policy of insurance that provides BLM with acceptable rights as a beneficiary and is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction and whose insurance operations are regulated and examined by a federal or state agency. The Authorized Officer will not accept a corporate guarantee as an acceptable form of bond. The holder must provide the bond in an acceptable form prior to receiving an initial Notice to Proceed. The bond will be reviewed at the time of any assignment, modification, or renewal of this instrument. The Authorized Officer may increase or decrease the bond amount at any time during the term of the right-of-way authorization, consistent with the regulations.

b. The holder agrees that any bond held 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.

c. Should the bond delivered under this instrument become unsatisfactory to the Authorized Officer, the holder shall, within 45 calendar days of demand, furnish a new bond. In the event of noncompliance with the terms and conditions of this instrument, the BLM will notify the holder that the surety or other bond instrument is subject to forfeiture and will allow the holder 30 calendar days to respond before action is taken to forfeit the bond and suspend or terminate the authorization.

5. Terms and Conditions:

a. This instrument 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, including the terms and conditions required by 43 CFR 2805.12. Failure of the holder to comply with applicable law or regulations or any terms, conditions, or stipulations of this instrument shall constitute grounds for suspension or termination thereof of this instrument in accordance with 43 CFR 2807.17 – 2807.19. The Authorized Officer may change the terms and conditions of this instrument as a result of changes in legislation, regulations, or as otherwise necessary to protect public health or safety or the environment in accordance with 43 CFR 2805.15(e).

b. The right-of-way Stipulations attached hereto (Exhibit B) and the approved Plan of Development are incorporated into and made a part of this instrument as fully and effectively as if they were set forth herein in their entirety.

c. The holder shall perform all operations in a good and workmanlike manner, consistent with the approved Plan of Development, so as to ensure protection of the environment and the health and safety of the public. The Authorized Officer may order an immediate temporary suspension of operations, orally or in writing, in accordance with 43 CFR 2807.16 to protect public health or safety or the environment if the Authorized Officer determines that the holder has violated one or more of the terms, conditions, or stipulations of this instrument. An immediate temporary suspension order is effective until the holder receives a written Notice to Proceed from the Authorized Officer.

d. The holder will not initiate any construction or other surface disturbing activities on the right-of way without prior written authorization of the Authorized Officer. Such authorization will be a written Notice to Proceed (Form 2800-15) issued by the Authorized Officer or his/her delegated representative. A Notice to Proceed will be required during construction and will authorize construction only for the particular location or use and occupancy therein described. The Authorized Officer will issue a Notice to Proceed subject to such terms and conditions as deemed necessary when the design, construction, use, occupancy, and operation proposals are in conformity with the terms and conditions of this instrument. Tule Wind, LLC must provide to the BLM copies of executed leases with the California State Lands Commission and Ewiiaapaayp Band of Kumeyaay Indians for the Tule Wind Ridgeline Component prior to recieving a Notice of Proceed.

e. The holder shall start construction of the initial phase of development no later than 24 months after the effective date of the issuance of this right-of-way grant. The holder shall complete construction no later than 24 months after start of construction. Failure of the holder to comply with this diligent development provision may cause the Authorized Officer to suspend or terminate the authorization in accordance with 43 CFR 2807.17 - 2807.19, and use the posted Performance and Reclamation bond to cover the costs for removal of any equipment and/or facilities. The Authorized Officer will provide the holder a written Notice of Failure to Ensure Diligent Development prior to the suspension or termination of the authorization. The holder will be provided an opportunity to correct any noncompliance in accordance with 43 CFR 2807.18 or submit a written request to the Authorized Officer for an extension of the timelines in the approved Plan of Development.

f. Upon termination by the Authorized Officer or expiration of this instrument, all improvements shall be removed from the public lands within 180 calendar days or otherwise disposed of as provided for in the approved Plan of Development, or as directed by the Authorized Officer.

g. This instrument shall, at a minimum, be reviewed by the Authorized Officer at the end of the 20$^{th}$ year and at regular intervals thereafter not to exceed 10 years. Provided, however, that this

instrument may be reviewed at any time deemed necessary by the Authorized Officer in accordance with the regulations.

h. This instrument may be assigned consistent with the regulations, but all assignments are subject to approval by the Authorized Officer. In addition, the qualifications of all assignees must comply with the requirements of the regulations. A partial assignment of this instrument shall not be approved if such action would hinder the Authorized Officer's management of the authorization or the associated public lands.

i. Upon the request of the Authorized Officer, the holder shall provide access to environmental, technical, and financial records, reports, and other information related to construction, operation, maintenance, and decommissioning of the right-of-way. Any information marked confidential or proprietary will be kept confidential to the extent allowed by law. Failure of the holder to cooperate with such request, provide data, or grant access to such records, reports, and information may, at the discretion of the Authorized Officer, result in suspension or termination of the right-of-way grant in accordance with the regulations.

j. The holder shall not initiate any construction or other surface disturbing activities as a minor change to the right-of-way or Plan of Development without prior written approval of the Authorized Officer, or his delegate. Such authorization shall be a written Change of Condition or Adjustment. Each Change of Condition/Adjustment shall authorize construction or use only as therein expressly stated and only for the particular location and use therein described. All Changes of Condition/Adjustments are subject to such terms and conditions as deemed necessary by the Authorized Officer at the time of approval. Approved changes authorize construction or use only as therein expressly stated and only for the particular location, phase, area, or use described. The Authorized Officer may, by written notice, suspend or terminate in whole or in part any change of condition/adjustment which has been approved, when in the Authorized Officer's judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment. All Conformance Requests will be documented and tracked to ensure the acreages of disturbance affected by post-authorization conformance changes remain within the limits of impacts analyzed in the Tule Wind Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and approved in the ROD and ROW.

k. The holder, or its agents shall not construct or operate any portion of the Tule Wind project, including the Reduced Ridgeline Component, in the Sawtooth Mountain Wilderness Area, or use these lands in any manner prohibited by 43 CFR 6302.20. Any incursions into the wilderness will be subject to penalties described in 43 CFR 6302.30 and may require use of the provided Reclamation Bond to fund restoration of the affected area.

IN WITNESS WHEREOF, The undersigned agree to the terms, conditions, and stipulations of this right-of-way grant.

Agent of Tule Wind LLC
Rahy Haviv
Authorized Representative

Title

6 · 13 · 14

Date

By

Name Scott Jacobson
Authorized Representative

Title

LEGAL

BLM Authorized Officer

FIELD MANAGER

Title

6/30/2014

Date

Attachments
Exhibit A: Map
Exhibit B: Stipulations

EXHIBIT B - STIPULATIONS

1. The holder shall construct, operate, and maintain the facilities, improvements, and structures within this right-of-way in strict conformity with the approved Plan of Development, as amended or supplemented by approval of the Authorized Officer. Any surface disturbing activity, additional construction, or use that is not in accord with the approved Plan of Development shall not be initiated without the prior written approval of the Authorized Officer. A copy of the complete right-of-way grant, including all stipulations and approved Plan of Development, shall be made available on the right-of-way area during construction, operation, and decommissioning. Noncompliance with the above will be grounds for immediate temporary suspension of activities if it constitutes a threat to public health or safety or the environment.

2. The holder shall comply with the Biological Opinion for listed and proposed species associated with this project signed by the U.S. Fish and Wildlife Service on September 2, 2011. Failure to comply with the requirements of the Biological Opinion shall be cause for suspension or termination of the right-of-way grant.

3. The holder shall comply with the stipulations set forth in the Memorandum of Agreement (MOA) among the Bureau of Land Management, the Department of Energy, the Bureau of Indian Affairs, the United States Army Corps of Engineers, the Ewiiaapaayp Band of Kumeyaay Indians, Tule Wind LLC, the California State Historic Preservation Officer and the Advisory Council on Historic Preservation regarding the Tule Wind Energy Project in San Diego County, California.

4. The holder shall comply with all applicable Mitigation Measures adopted as part of the Final Environmental Impact Statement / Environmental Report for the East County Substation, Tule Wind and Energia Sierra Juarez Gen Tie Projects.

5. The holder shall designate a representative who shall have the authority to act upon and to implement instructions from the Authorized Officer. The holder's representative shall be available for communication with the Authorized Officer within a reasonable time when construction or other surface disturbing activities are underway.

6. The holder shall protect all survey markers found within the right-of-way. Survey markers include, but are not limited to, Public Land Survey System line and corner markers, other property boundary line and corner markers, and horizontal and vertical geodetic monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority if known. Where any of the above survey markers are obliterated or disturbed during operations, the Authorized Officer will determine how the marker is to be restored. The holder will be instructed to secure the services of a registered land surveyor or informed that an official survey will be executed by the Bureau of Land Management (BLM). All surveying activities will be in conformance with the Manual of Surveying Instructions and appropriate State laws and regulations. Surveys by registered land surveyors will be examined by the

Authorized Officer and the BLM State Office Chief Cadastral Surveyor for conformance with the Manual of Surveying Instructions and State laws and regulations before being filed in the appropriate State or county offices of record. The holder shall be responsible for all administrative and survey costs.

7. 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.

8. The holder shall comply with all applicable Federal, State, and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazardous material, as defined by 43 CFR 2801.5 that will be used, produced, or transported on or within the right-of-way, or used in the construction, operation, maintenance, or decommissioning of the project or any of its facilities. The holder agrees in accordance with 43 CFR 2807.12(e) to fully indemnify the United States against any liability arising from the release of any hazardous material on or near the right-of-way in connection with the holder's use and occupancy of the right-of-way, whether or not the release is authorized under the grant. This agreement applies without regard to whether a release is caused by the holder, or its agent.

9. Within 120 calendar days of completion of construction, the holder will submit to the Authorized Officer as-built drawings and a certification of construction verifying that the facility has been constructed in accordance with the design, plans, specifications, and applicable laws and regulations.

10. Temporary construction laydown areas shall be removed and restored to their original condition upon completion of construction within the Reduced Ridgeline Component project area, but no later than 24 months after receiving an intial Notice to Proceed.