



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

El Centro Field Office  
1661 South 4<sup>th</sup> Street  
El Centro, CA 92243-4561



November 5, 2013

***In Reply Refer To:***

2800(P)  
CACA-049698  
CA670.00

**CERTIFIED MAIL #7012346000029822747  
RETURN RECEIPT REQUESTED**

### DECISION

Amy Parsons	:	Type-III Wind ROW
Iberdrola Renewables, Inc.	:	CACA-049698
1125 NE Couch St., Suite 700	:	FLPMA
Portland, Oregon 97209	:	

Proposed Amendments to Right-of-Way Grant CACA-49698  
and  
Response to Request for Extension of Notice to Proceed

Dear Ms. Parsons,

This letter addresses the proposed amendments to right-of-way (ROW) grant CACA-49698 for the Tule Wind Project in San Diego County, California. On June 4, 2012, Iberdrola Renewables, Inc. sent a letter to the Bureau of Land Management (BLM) requesting a modification to the approved ROW for the Tule Wind Project. The BLM analyzed the proposed changes and issued an Amended Record of Decision (ROD) for the Tule Wind Project on March 7, 2013. The attachment enclosed lists the BLM's proposed changes to the ROW grant as a result of the Amended ROD. Please review these proposed amendments to the grant, and if they meet your satisfaction, sign and return both copies of the document to the BLM no later than 30 days from receipt of this letter. If you have any questions related to the proposed amendments, please contact R. Brian Paul, BLM Renewable Energy Projects Manager, at (760) 356-0527.

In addition, this letter addresses your letter to the BLM dated August 28, 2013, requesting an extension to the April 10, 2014 deadline for the start of physical construction for the Tule Wind Project to 24 months from the issuance of the Amended ROW grant. After review of your letter, the BLM does not find that the described circumstances and factors in your letter adequately justify an extension of the deadline for the start of physical construction to October 2015, or 24 months from the issuance of an amended ROW Grant, as requested. However, the BLM has found that, based upon the fact that the project interconnect agreement is currently being

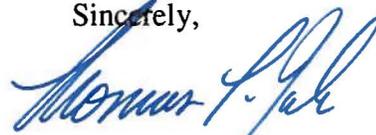
negotiated and that construction of the East County Substation is well underway and on schedule to be completed by November 2014, it is reasonable to grant an extension for the Tule Wind Project construction Notice to Proceed (NTP) to December 31, 2014. This should allow adequate time for Tule Wind, LLC to complete the power purchase agreement (PPA) with the utility.

Further, under adopted mitigation measure BIO-1e, Tule Wind, LLC is to provide habitat compensation or restoration for permanent impacts to native vegetation communities. Permanent impact to all native vegetation communities shall be compensated through a combination of habitat compensation and habitat restoration at a minimum of a 1:1 ratio or as required by the permitting agencies. Habitat compensation shall be accomplished through agency-approved land preservation or mitigation fee payment for the purpose of habitat compensation of lands supporting comparable habitats to those lands impacted by the proposed project. The BLM has determined that it is reasonable to grant an extension for land preservation and mitigation fee payment for the Tule Wind Project, to be due concurrent with the extension of the start of physical construction (December 31, 2014). The BLM will not issue an NTP until adopted mitigation measure BIO-1e is satisfied.

Finally, the BLM will not issue an NTP until there is an approved PPA or written confirmation is provided from the utility or California Public Utilities Commission to the BLM indicating a PPA will be approved. The BLM requires that Tule Wind, LLC provide the BLM with written confirmation of an executed or confirmed PPA prior to the issuance of an NTP, or by December 31, 2014.

Should Tule Wind, LLC or Iberdrola Renewables, Inc. have any questions related to the aforementioned requirements, the BLM recommends that Iberdrola executives contact and set up a meeting with the California State Director.

Sincerely,



Thomas F. Zale  
Field Manager

Enclosure:

Amendment to Tule Wind ROW Grant Resulting from the 138-kV Aboveground ROD(2)

Cc:

James Kenna, CA State Director  
Thomas Pogacnik, DSD Natural Resources  
Teresa Raml, District Manager, Desert District  
Gregory Miller, RECO Program Manager  
R. Brian Paul, Project Manager

**Amendments to the Tule Wind Project Right-of-Way Grant  
Resulting from the 138-kV Aboveground ROD and the BLM's Response Letter Addressing  
Iberdrola's Written Extension Requests**

**Section 1**

As approved by the Record of Decision for the Tule Wind Project dated December 19, 2011 and amended by the Amended Record of Decision for the Tule Wind Project dated March 7, 2013 a right-of-way 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. In addition, this grant is amended based upon the November 5, 2013 offer letter issued by the BLM addressing Iberdrola's request to extend the due date for issuance of the Notice to Proceed (NTP) for construction, and to extend the due date for adopted mitigation measure BIO-1e.

**Section 2, Part B**

The project authorized herein consists of: permanent construction of up to 62 turbine sites, 18.81 miles of new access road, 11.08 miles of improvements to existing roadways, ~~overhead and underground~~ 34.5 kV collector lines, ~~1.79 miles of an overhead~~ 138 kV gen-tie line and two meteorological towers. Also included are the following temporary construction facilities: a 10 acre parking and staging area and twelve two acre construction laydown areas.

**Section 5, Part 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~~ December 31, 2014. The holder shall complete construction within the timeframes in the Project Schedule, as ~~shown in Exhibit C~~ agreed upon by the BLM, but 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.

**Stipulation 14**

Provide habitat compensation or restoration for permanent impacts to native vegetation communities. Permanent impact to all native vegetation communities shall be compensated through a combination of habitat compensation and habitat restoration at a minimum of a 1:1 ratio or as required by the permitting agencies. Habitat compensation shall be accomplished through agency-approved land preservation or mitigation fee payment for the purpose of habitat compensation of lands supporting comparable habitats to those lands impacted by the Proposed

Project. Land preservation or mitigation fee payment for habitat compensation must be completed ~~within 18 months of permit issuance~~ before issuance of the Notice to Proceed for construction. Habitat restoration may be appropriate as compensation for permanent impacts provided that restoration is demonstrated to be feasible and the restoration effort is implemented pursuant to a Habitat Restoration Plan, which includes success criteria and monitoring specifications. The Habitat Restoration Plan shall be approved by the permitting agencies prior to construction of the project. All habitat compensation and restoration used as mitigation for the Proposed Project on public lands shall be located in areas designated for resource protection and management. All habitat compensation and restoration used as mitigation for the Proposed Project on private lands shall include long-term management and legal protection assurances.

### **Stipulation 32**

Design and configure wind turbines to maximally avoid and minimize bird and bat resources. Various design features shall be used to reduce or avoid impacts to bird and bat species. These may include avoiding guy wires, reducing impacts with appropriate turbine layout based on micro-siting decisions that may include such refinements as placing all turbines on the ridgeline and avoiding placement of turbines on slopes and within canyons, reduce foraging resources near turbines, ~~and placing power lines underground as much as feasible, and reducing~~ and marking all associated power lines and guy wires with bird diverters, following the Avian Power Line Interaction Committee (APLIC) standards at a minimum to reduce bird strikes.

### **Stipulation 41 – Eliminated**

~~Avoid potential visibility of transmission structures and related facilities from sensitive viewing locations. Underground portions of the 138 kV transmission line and/or collector system to avoid visual impacts to scenic highways, scenic vistas, or scenic resources.~~

### **Stipulation 98 – Eliminated**

~~Bury power line below 100-year scour depth. At locations where the buried power line is to be at or adjacent to a streambed capable of scour, the power line shall be located below the expected depth of scour from a 100-year flood, or otherwise protected from exposure by scour which, for purposes of this stipulation, also includes lateral (stream bank) erosion and potential scour associated with flows overtopping or bypassing a culvert or bridge crossing. During final design, a registered civil engineer with expertise in hydrology, hydraulics, and river mechanics shall make a determination of where the underground line could be at risk of exposure through scour or erosion from a 100-year event.~~

The undersigned agrees to the amended terms of the Tule Wind Project right-of-way grant:

\_\_\_\_\_  
(Signature of Holder)

\_\_\_\_\_  
(Signature of Authorized Officer)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Effective Date of Grant)

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