

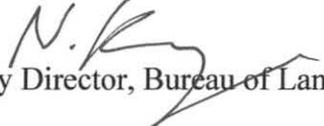


United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
<http://www.blm.gov>

JAN 10 2014

DECISION MEMORANDUM FOR THE PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT

From: Neil Kornze 
Principal Deputy Director, Bureau of Land Management

Subject: Record of Decision - Reduced Ridgeline Component of the Tule Wind Project (CA)

RECOMMENDATION

I recommend you approve ancillary facilities (named the "Reduced Ridgeline Component" of the Tule Wind Project) as described and analyzed in the Proposed Action of the 2011 *Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS), East County Substation, Tule Wind, and Energia Sierra Juarez Gen-Tie Projects*, explained in the introduction section of this memorandum. Your approval of this decision constitutes the final decision of the Department of the Interior and, in accordance with the regulations at 43 CFR 4.410(a)(3), is not subject to appeal under Departmental regulations at 43 CFR Part 4.

DECISION BY THE PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT

APPROVE

DISAPPROVE

COMMENT:

Date: 1-17-14



Tommy Beaudreau
Principal Deputy Assistant Secretary for
Land and Minerals Management
U.S. Department of the Interior



United States Department of the Interior

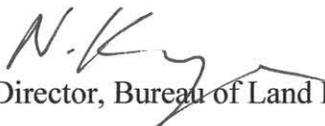
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DECISION MEMORANDUM FOR THE PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT

From: Neil Kornze 
Principal Deputy Director, Bureau of Land Management

Subject: Record of Decision - Reduced Ridgeline Component of the Tule Wind Project (CA)

INTRODUCTION

The Applicant, Tule Wind LLC, a wholly owned subsidiary of Iberdrola Renewables, LLC, has requested a right-of-way (ROW) grant authorization to construct, operate, maintain, and decommission four ancillary facilities on public land in eastern San Diego County, including:

- Approximately 3.5 miles of overhead collector line;
- Approximately 2.5 miles of underground collector line;
- Approximately 5.5 miles of access road; and
- Two temporary 2-acre construction laydown yards.

Approval of these facilities will connect the BLM-authorized Tule Wind Project on public lands to an approved ridgeline component of the Tule Wind Project on Ewiiapaayp Indian Reservation Lands, approved by the Bureau of Indian Affairs (BIA) on December 16, 2013. All four ancillary facilities comprising the Reduced Ridgeline Component, the Tule Wind Project on public lands, and the ridgeline component of the of the Tule Wind Project on Ewiiapaayp Reservation Lands were described and analyzed within the Proposed Action of the 2011 *Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS), East County Substation, Tule Wind, and Energia Sierra Juarez Gen-Tie Projects*.

A Record of Decision (ROD) approving the Tule Wind Project on public lands was signed by the Secretary of the Interior on December 19, 2011. A ROW grant was issued by BLM to Tule Wind LLC, pursuant to Title V of the Federal Land Policy and Management Act and Federal right-of-way regulations under 43 Code of Federal Regulation (CFR) 2800, for construction, operation, maintenance, and decommissioning of the Tule Wind Project on April 10, 2012, and is serialized as CACA-049698.

BACKGROUND

On April 5, 2013, Tule Wind LLC submitted a Standard Form-299 to the BLM El Centro Field Office requesting that the BLM approve and authorize the ancillary facilities analyzed as part of the Proposed Action in the Final EIR/EIS needed to connect the Tule Wind Project on public lands to the northernmost portion of the ridgeline component of the Tule Wind Project on Ewiiapaayp Indian Reservation Lands. Additionally, Tule Wind LLC requested that the BLM approve a portion of an underground collector line on public lands to facilitate a future interconnection of the California State Lands Commission (CSLC) component of the project to the larger Tule Wind Project, as described and analyzed in the Final EIR/EIS.

On December 16, 2013, the BIA issued a ROD approving a lease for the northernmost portion of the ridgeline component of the Tule Wind Project on Ewiiapaayp Indian Reservation Lands. The BIA decision approves Tule Wind LLC's lease of up to 720 acres for operation of wind turbine facilities to be sited on a portion of the Ewiiapaayp Indian Reservation.

The CSLC has not issued a decision or executed a lease in favor of the project on CSLC lands to date; however, a lease application is pending with the CSLC. The BLM's ROW grant will require that the CSLC grants access to State lands before BLM will issue Notice to Proceed to begin construction.

POSITION OF INTERESTED PARTIES

There are no key concerns specific to the approval of the four ancillary components in the Reduced Ridgeline Component on public lands. The Ewiiapaayp Band of Kumeyaay Indians has expressed support of any approval of Reduced Ridgeline Component on public lands because the approval of these facilities would allow the project on Ewiiapaayp Indian Reservation Lands to connect to the approved Tule Wind Project on public lands and would generate revenue for the Tribe. The BIA has expressed similar support because it would further the Department of the Interior's goals in producing renewable energy on Tribal and public lands.

Numerous comments during the 2011 Final EIR/EIS process were received from Tribes and Native American organizations concerning cultural resource impacts. The BLM undertook National Historic Preservation Act (NHPA) Section 106 and government-to-government consultation for the Tule Wind Project as proposed by Tule Wind LLC. As a result of Section 106 consultation, a Memorandum of Agreement (MOA) was completed and attached to the 2011 ROD as Appendix B. The MOA was executed by the BLM, the U.S. Army Corps of Engineers-Los Angeles District, BIA, Ewiiapaayp Band of Kumeyaay Indians, California SHPO, and the Advisory Council on Historic Preservation as signatory parties, with Tule Wind LLC as an invited signatory party.

The MOA is binding on the Applicant and the proposed undertaking. The executed MOA represents the BLM's completion of the NHPA Section 106 process. A Section 106 Findings and Determinations for the Reduced Ridgeline Component ROD has been prepared in accordance with the NHPA and is attached as Appendix A to the Reduced Ridgeline Component ROD.

Throughout the process, local residents have expressed concern about the cumulative effects from multiple industrial renewable energy and transmission projects in Eastern San Diego County. There was also concern about wild land fire, as this area is subject to large fires. The BLM adopted several mitigation measures in response to this concern. Additionally, some environmental groups opposed to energy development projects in the desert as a whole may not support this project. On March 18, 2013, the Protect Our Communities Foundation, Backcountry Against Dumps, and Donna Tisdale filed a lawsuit against the Authorized Valley Component of the Tule Wind Project, alleging that the project is a violation of the National Environmental Policy Act, the Migratory Birds Treaty Act, and the Bald and Golden Eagle Protection Act.

DECISION OPTIONS

The Decision Options for this ROD are to:

1. Approve the four ancillary facilities on public lands
2. Not Approve the four ancillary facilities on public lands

Any challenge to this decision, including the BLM Authorized Officer's issuance of the ROWs as approved by this decision, must be brought in Federal District Court.

RECORD OF DECISION

Tule Wind Project

Ancillary Facilities on Public Lands Supporting the Reduced Ridgeline Component

Lead Agency:

United States Department of the Interior
Bureau of Land Management

Environmental Impact Statement 20110347

Case File Numbers:

CACA-054397 (Access Road)
CACA-054398 (Overhead Collector Line)
CACA-054399 (Underground Collector Lines)
CACA-054397-01 (Two Laydown Yards)

Tule Wind Project
Decision to Grant Rights-of-Way

United States Department of the Interior, Bureau of Land Management
El Centro Field Office
1661 S. Fourth Street
El Centro, California 92243

January 2014



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List of Acronyms and Abbreviations

Acronym/Abbreviation	Term
ABPP	Avian and Bat Protection Plan
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BO	Biological Opinion
CFR	Code of Federal Regulations
CSLC	California State Lands Commission
DOI	Department of the Interior
ECCMP	Environmental and Construction Compliance Monitoring Plan
ECO	East County
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
ESA	Endangered Species Act
FLPMA	Federal Land Policy and Management Act
MOA	Memorandum of Agreement
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NTP	Notice to Proceed
O&M	Operations and Maintenance
RMP	Resource Management Plan
ROD	Record of Decision
ROW	right-of-way
SF	Standard Form
USFWS	U.S. Fish and Wildlife Service

1. Decisions

1.1 Background

This Record of Decision (ROD) for the Tule Wind Project approves the construction, operation, maintenance, and decommissioning of an overhead collector line, an underground collector line, an access road, and two 2-acre temporary laydown yards on Bureau of Land Management (BLM)-managed lands analyzed as part of the Proposed Action of the *Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS), East County Substation, Tule Wind, and Energia Sierra Juarez Gen-Tie Projects* (Final EIS/EIR). As explained below, the purpose of the ancillary facilities authorized by this ROD is to connect certain ridgeline turbines analyzed in the Final EIS/EIR on lands not managed by the BLM to that portion of the Tule Wind Project authorized by the BLM previously in 2011.

In December 2011, BLM issued a ROD approving a combination of two alternatives in the Final EIR/EIS for the Tule Wind Project: Tule Wind Alternative 5, Reduction in Turbines; and Tule Wind Alternative 2, Gen-Tie Route 2 Underground with Collector Substation/Operations and Maintenance (O&M) Facility on Rough Acres Ranch. The BLM issued a right-of-way (ROW) grant to Tule Wind LLC in April 2012 for the approved Tule Wind Project on public lands (referred to as the “Authorized Valley Component” in this ROD) pursuant to Title V of the Federal Land Policy and Management Act (FLPMA), and in accordance with Federal ROW regulations under 43 CFR 2800 (see Figures 1 through 3 for the project vicinity, location, and selected alternative). BLM amended its 2011 Decision in March 2013 to accommodate a request from Tule Wind LLC to install the 138 kilovolt (kV) generation tie-in line for the Project overhead as opposed to underground. The March 2013 amendment also approved a minor route adjustment in response to modifications to the location of certain private land project facilities associated with approvals issued by the County of San Diego (BLM 2013).

With this ROD, BLM is approving the overhead collector line, an underground collector line, an access road, and two 2-acre temporary laydown yards to integrate the Authorized Valley Component, as approved by BLM in the 2011 Tule Wind Project ROD, as amended, (herein referred to as 2011 ROD), with a portion of the Tule Wind Project described under the Proposed Action in the Final EIR/EIS, located on the Ewiiapaayp Indian Reservation (Trust Lands). The facilities authorized by this ROD will also facilitate the future integration of the Authorized Valley Component with facilities on California State Lands Commission (CSLC) lands, as described in the Proposed Action of the Final EIR/EIS; which facilities are pending a decision from the CSLC. The facilities being approved on public lands pursuant to this ROD are located northwest of the Authorized Valley Component are shown in Figure 4 of this ROD.

As explained in the Executive Summary of the 2011 ROD, the Proposed Action analyzed in the Final EIR/EIS included other project components on lands subject to review and approval of other jurisdictions, including the Ewiiapaayp Band (Tribe), the Bureau of Indian Affairs (BIA), and the CSLC. It is also stated in the 2011 ROD that if the Ewiiapaayp Band and the BIA or CSLC approve these project components within their respective jurisdictions, the BLM would use the analysis contained in the Final EIR/EIS to issue a decision on subsequent ROW grants.

On December 16, 2013, BIA issued a decision approving the lease between Tule Wind LLC and the Ewiiapaayp Band for the northernmost portion of the Reduced Ridgeline

Component of the Tule Wind Project on Trust Lands. The lease allows Tule Wind LLC to lease up to 720 acres for operation of wind turbine facilities to be sited on a portion of the Ewiiapaayp Indian Reservation (BIA 2013).

On April 5, 2013, Tule Wind LLC submitted a Standard Form (SF)-299 *Application for Transportation and Utility Systems and Facilities on Federal Lands*, requesting that the BLM approve and authorize the ancillary facilities analyzed as part of the Proposed Action in the Final EIR/EIS needed to connect the Authorized Valley Component of the Tule Wind Project to the ridgeline component of the Project located on Trust and CSLC lands. Specifically, the SF-299 submitted by Tule Wind LLC, requested the following ancillary facilities be approved by BLM:

- Approximately 3.5 miles of overhead collector line on public lands, connecting turbine B1 (which was approved in the 2011 ROD, see Figure 3 of this ROD), to the boundary of Ewiiapaayp Reservation lands;
- Approximately 2.5 miles of underground collector line;
- Approximately 5.5 miles of access road on public lands (beginning at turbine B1) to the boundary of Ewiiapaayp Reservation lands, a portion of which traverse CSLC lands and requires an independent approval from the CSLC for that portion; and
- Two temporary 2-acre laydown yards.

The four facilities, collectively, are referred to as the “Reduced Ridgeline Component Ancillary Facilities” in this ROD. Approval of these facilities will take the form of a FLPMA ROW grant, issued in conformance with Title V of FLPMA and implementing regulations found at Title 43 Code of Federal Regulations (CFR) Part 2800.

This ROD conditions the ROW grant for these facilities on the implementation of mitigation measures and monitoring programs as identified in Appendix C to the 2011 ROD, Adopted Mitigation Measures, and Appendix D, Environmental and Construction Compliance Monitoring Plan (ECCMP); the Biological Opinion (BO) issued by the U.S. Fish and Wildlife Service (USFWS), which is provided in Appendix A of the 2011 ROD, as amended; National Historic Preservation Act (NHPA) Section 106 Memorandum of Agreement (MOA), which is provided in Appendix B of the 2011 ROD; and the issuance of all other necessary local, State, and Federal approvals, authorizations, and permits. In addition, the ROW grant is conditioned upon any amendments to the BO, the MOA, and other necessary approvals, authorization, and permits. Appendix A of this ROD includes a Section 106 Findings and Determination for the Reduced Ridgeline Component Ancillary Facilities of the Tule Wind Project as required by the NHPA.

1.1.1 Applicant/Application

Tule Wind LLC is a wholly owned subsidiary of Iberdrola Renewables Inc. Tule Wind LLC is proposing to construct, operate, maintain, and decommission the Reduced Ridgeline Component Ancillary Facilities connecting its Authorized Valley Component of the Tule Wind Project on BLM-managed lands to certain wind turbines on Trust Lands and CSLC lands.

1.1.2 Purpose and Need

In accordance with FLPMA (Section 103(c)), public lands are to be managed for multiple use that takes into account the long-term needs of future generations for renewable and nonrenewable resources. The Secretary of the Interior is authorized to grant ROWs on public lands for systems of generation, transmission, and distribution of electric energy (Section 501(a)(4)). The purpose and need for the Proposed Action for the Tule Wind Project is identified in full in Section 1.1.2 of the 2011 ROD.

In this ROD, the BLM is deciding to issue a ROW to allow for the Reduced Ridgeline Component Ancillary Facilities as analyzed in the Proposed Action of the Final EIR/EIS and as referenced above.

1.1.3 BLM Authority

1.1.3.1 Federal Land Policy and Management Act of 1976

The BLM's authority to issue a ROW under FLPMA is described in Section 1.1.3.1 of the 2011 ROD. This section also describes the BLM's authority to administer the ROW grant. The Field Manager for the El Centro Field Office is the authorized officer for the administration of the Tule Wind ROW grant.

1.1.3.2 National Environmental Policy Act

The BLM's responsibility and authority under the National Environmental Policy Act (NEPA) is described in Section 1.1.3.2 of the 2011 ROD.

The Draft EIR/EIS, Final EIR/EIS, and 2011 ROD, collectively document the BLM's compliance with the requirements of NEPA for the Tule Wind Project on the lands it manages. The Reduced Ridgeline Component Ancillary Facilities were fully analyzed in the EIR/EIS for the Tule Wind Project. A ROW authorization for the Reduced Ridgeline Component Ancillary Facilities and the decisions in this ROD are based upon that NEPA analysis.

1.1.3.3 BLM Eastern San Diego County Resource Management Plan

In furtherance of its authority under FLPMA, the BLM manages land in eastern San Diego County pursuant to the *Eastern San Diego County Resource Management Plan* (Eastern San Diego County RMP) (2008). This plan is described in Section 1.1.3.3 of the 2011 ROD. An approval of the Reduced Ridgeline Component Ancillary Facilities is in conformance with the Eastern San Diego County RMP.

1.1.3.4 Other Guidance and Regulations

Section 1.1.3.4 of the 2011 ROD describes other guidance and regulations that the BLM must comply with when issuing a ROW for a utility-scale wind project and its ancillary facilities. Although this decision is for an overhead collector line, underground collector line, access road, and two 2-acre laydown yards, it is in support of the already-authorized Valley Component and approved ridgeline component of the Tule Wind Project on Trust Lands,

therefore it is responsive to the BLM authority and policy described in the 2011 ROD for utility-scale renewable energy.

1.2 Information Developed Since the 2011 ROD and Adequacy of NEPA Analysis

As noted above, the BLM amended the 2011 ROD and ROW grant for the Authorized Valley Component of the Tule Project in response to: (i) changes in the location of certain private land facilities by the County of San Diego; and (ii) Tule Wind, LLC's request to install the Project's gen-tie line overhead instead of underground. That amendment was approved in March 2013 and as explained in the ROD approving that decision it did not warrant additional NEPA analysis. Similarly, the Reduced Ridgeline Component Ancillary Facilities here are being approved as analyzed in the Final EIR/EIS. As a result, no significant new circumstances or information has arisen that would warrant supplementation of the existing analysis in the Final EIR/EIS with respect to those facilities.

1.3 Decision Being Made

1.3.1 Right-of-Way Grant

The decision to issue a ROW grant for the Approved Valley Component of the Tule Wind Project is described in Section 1.3.1 of the 2011 ROD.

Under Federal law, BLM is responsible for processing requests for ROW grant applications to determine whether and to what extent to authorize requests such as renewable energy projects and other appurtenant facilities on land it manages (43 U.S.C. 1761(a), 1764(a)). The facilities proposed in the Reduced Ridgeline Component Ancillary Facilities would connect the Approved Valley Component and the ridgeline component of the Tule Wind Project on Trust and CSLC's lands. The Reduced Ridgeline Component Ancillary Facilities is a privately-initiated venture and would be sited primarily on lands managed by the BLM. Therefore, the applicant applied for a ROW grant from the BLM pursuant to Federal law and regulations for those facilities located on BLM managed lands. An independent approval would be required from the CSLC for those other facilities.

The BLM concludes that the acreage to be authorized in the ROW grant for the Reduced Ridgeline Component Ancillary Facilities is necessary for constructing, operating, maintaining, and decommissioning those facilities. The ROW grant will authorize Tule Wind LLC to construct, operate, maintain, and decommission the ancillary facilities in the Reduced Ridgeline Component Ancillary Facilities of the Tule Wind Project; however, the 2011 ROD requires Tule Wind LLC to secure all necessary local, state, and Federal permits, authorizations, and approvals for the Tule Wind Project to be constructed on public lands. Therefore, the BLM will require Tule Wind LLC to obtain the following authorizations prior to commencement of any construction activities on public lands: (1) A lease executed between Tule Wind LLC and Ewiiapaayp Band to construct and operate the portion of the project on Trust Lands and (2) A lease or similar permit issued to Tule Wind LLC by CSLC to construct any related ancillary facilities on CSLC land.

Upon receipt of the Notice to Proceed (NTP), and consistent with the ROW grant, Tule Wind LLC will be able to construct the Reduced Ridgeline Component Ancillary Facilities on public lands managed by the BLM.

1.3.2 What is Not Being Approved

While described and analyzed in the Proposed Action of the Final EIR/EIS, the following turbines on public lands are neither requested by Tule Wind LLC nor approved by BLM through this ROD: turbine J8 and J9; K8 through K12, (K6); L1 through L11; M1 and M2, (M1) through (M3); N1 through N6; and Q1 and Q2, and (see Figure B-19B of the Final EIR/EIS; included as Figure 2 of this ROD). Additionally, the spur roads to these turbines, described and analyzed in the Proposed Action of the Final EIR/EIS are neither being requested by Tule Wind LLC, nor approved by BLM through this ROD.

This ROD does not approve facilities proposed on CSLC lands or Trust Lands, because those facilities are outside of BLM's jurisdiction. A decision from CSLC for the portion of the project on CSLC land has not been issued, but a request is pending. As noted above, BIA has issued a ROD approving the lease for the portion of the project on Trust Lands.

Finally, this ROD does not authorize any safety or construction buffers associated with turbines on other CSLC or Trust lands nor does it authorize any activities within the Sawtooth Wilderness Area pursuant to 43 CFR 6302.20.

1.4 ROW Requirements

The BLM ROW requirements for the Tule Wind Project are described in Section 1.4 of the 2011 ROD. Requirements applicable to the Reduced Ridgeline Component Ancillary Facilities will be carried forward as part of ROW grant issued for those facilities.

1.5 Future Changes to the Approved Project

The process for modifying the approved project is described in Section 1.5 of the 2011 ROD, as well as Federal ROW regulations contained in 43 CFR 2800. Approved changes or additions to the Tule Wind Project will be subject to the ECCMP (Appendix D) of the 2011 ROD.

1.6 Summary of Conclusions

At the time of the 2011 ROD publication, the Selected Alternative for the Tule Wind Project was the action alternative that provided the most public benefit and avoided the greatest potential impact on biological, cultural, and hydrologic resources as concluded in Section 1.6 of the 2011 ROD. Alternative 5, Reduction in Turbines, which was part of the Selected Alternative, did not include the four facilities included in the Reduced Ridgeline Component.

Since the issuance of the 2011 ROD, BIA has issued a decision approving a lease for that portion of the project on Trust Lands. As explained above, the BLM's approval of the Reduced Ridgeline Component Ancillary Facilities on public lands would facilitate the goals and objectives identified in the Final EIR/EIS and the 2011 ROD. Additionally, as evaluated in the Final EIR/EIS, approval of the access road included as part of the Reduced Ridgeline Component Ancillary Facilities is the most feasible to construct in terms of maintenance of existing topography and will also provide beneficial fire and emergency response access to the isolated Reduced Ridgeline area of the Ewiiapaayp Reservation.

2. Mitigation and Monitoring

Section 2 of the 2011 ROD detailed the Required Mitigation (Section 2.1), Monitoring and Enforcement (Section 2.2), Mitigation Measures Not Adopted or Not Applicable to the portions of the Project on BLM managed lands (Sections 2.3 and 2.4), a Statement of All Practicable Mitigation Adopted (Section 2.5), and Coordination with Other BLM Monitoring Activities (Section 2.6). The BLM has determined that changes to adopted or not-adopted mitigation measures are not necessary to support this decision.

3. Management Considerations

3.1 Decision Rationale

This decision approves a ROW grant for an overhead collector line, underground collector line, access road, and two 2-acre laydown yards as analyzed under the Proposed Action in the Final EIR/EIS. The BLM's decision to authorize this activity is based on the rationale described throughout the ROD and as detailed in the following sections.

3.1.1 Respond to Purpose and Need

The BLM's purpose and need for the Tule Wind Project was to respond to the applicant's externally generated application under Title V of FLPMA for a ROW grant to construct, operate, maintain, and decommission an energy generating facility and associated infrastructure on public lands in compliance with FLPMA, BLM ROW regulations, and other applicable Federal laws. Specifically, BLM has decided to approve the Reduced Ridgeline Component Ancillary Facilities, whose components were analyzed in the Proposed Action of the Final EIR/EIS.

The construction, operation, maintenance, and decommissioning activities associated with the aforementioned project components, either singularly or with mitigation, are in conformance with the following land use plans and policies:

- BLM Eastern San Diego County RMP of 2008;
- BLM McCain Valley Wildlife Habitat Management Plan of 1984; and
- BLM policy and guidance for issuing ROW grants.

3.1.2 Achieve Goals and Objectives

Approval of the Reduced Ridgeline Component Ancillary Facilities would accomplish the objectives of the purpose and need identified in Section 1.1.2 of the 2011 ROD including meeting power demand, as well as Federal and State objectives for renewable energy development.

3.1.3 Status of Required Actions

Section 3.1.3 of the 2011 ROD described the status of required actions under the Endangered Species Act of 1973; the Bald and Golden Eagle Protection Act; the NHPA; the Clean Air Act, as amended; and the Clean Water Act. This decision does not affect the BLM's compliance nor Tule Wind LLC's overall compliance with the requirements under the

aforementioned laws as described in the 2011 ROD. The subsections below address issues under those authorities as they relate to the Reduced Ridgeline Component Ancillary Facilities.

3.1.3.1 Endangered Species Act of 1973

The BLM's issuance of a ROW grant for the Reduced Ridgeline Component Ancillary Facilities will require Tule Wind LLC to comply with the Tule Project's Biological Opinion ("BO") and any amendment thereto. The grant will contain a standard stipulation that requires compliance with the BO. The requested ROW grant for the Reduced Ridgeline Component Ancillary Facilities does not alter the project description analyzed in the BO and is expected to have no effect on the Quino checkerspot butterfly or the bighorn sheep in the Peninsular Ranges.

3.1.3.2 The Bald and Golden Eagle Protection Act

The Reduced Ridgeline Component Ancillary Facilities are included as part of the separate Project-Specific ABPP (PSABPP) prepared by Tule Wind, LLC for those turbines that are part the Tule Wind Project located on Trust Lands. As explained in Section 1.2.2 of the 2013 BIA ROD, the Tribe has also required the applicant to seek a take permit prior to the commencement of operation of the ridgeline component of the Project. With respect to the facilities authorized by this ROD, the transmission line facilities will be constructed consistent with Avian Power Line Interaction Committee guidelines.

3.1.3.3 The National Historic Preservation Act and Government-to-Government Consultation

Section 106 MOA for the Tule Wind Project contains the final mitigation measures for the Project related to cultural and historic properties on public lands that might be affected by the Project. Consultation on the MOA considered both the valley and ridgeline components of the Tule Wind Project. Appendix A of this ROD includes a Section 106 Findings and Determination for the Reduced Ridgeline Component Ancillary Facilities, which finds that the activities covered by this ROW grant will take place within the originally defined area of potential effects for the Tule Wind Project and that there will be no additional adverse effects to historic properties with the approval of the Reduced Ridgeline Component Ancillary Facilities, provided the cultural resources mitigation measures are implemented as required by the MOA and the 2011 ROD. Accordingly, the request to approve the Reduced Ridgeline Component Ancillary Facilities is covered by the prior consultations for the Tule Wind Project. A description of the Government-to-Government consultation is found in Sections 3.1.3.3, 3.2.2, and 3.2.3 of the 2011 ROD, and the MOA is included in the 2011 ROD as Appendix B.

3.1.4 Statement of No Unnecessary or Undue Degradation

Section 3.1.4 of the 2011 ROD describes the requirement of FLPMA and 43 CFR 2805.11(a) to avoid unnecessary and undue degradation of public lands, and to limit the ROW grant to those lands that the BLM determines (1) will be occupied with authorized facilities; (2) are necessary for constructing, operating, maintaining, and terminating the authorized facilities;

(3) are necessary to protect the public health and safety; (4) will not unnecessarily damage the environment; and (5) will not result in unnecessary or undue degradation.

The 2011 ROD and the 2013 Amendment to the ROD limited the ROW grants to those lands that met the above criteria and determined that issuance of the grants would not cause unnecessary or undue degradation of public lands.

In this ROD, the BLM has limited the ROW grant to those lands that meet the above criteria. The ROW grant for the Reduced Ridgeline Component Ancillary Facilities will achieve the beneficial effects from renewable energy production, including socioeconomic benefits by facilitating wind energy development on Trust and CSLC lands, and displacement of greenhouse gas and air pollutant emissions, which would otherwise be generated through fossil-fueled power plants. Based on the analysis in the Final EIR/EIS, the Reduced Ridgeline Component Ancillary Facilities do not create unnecessary or undue degradation of public lands.

3.1.5 Statement of Technical and Financial Capability

Section 3.1.5 of the 2011 ROD describes Tule Wind LLC's technical and financial capability for the Approved Valley Component of the Tule Wind Project. The BLM used the same information to determine its technical and financial capability to develop the Reduced Ridgeline Component Ancillary Facilities.

3.1.6 Adequacy of NEPA Analysis

Since the preparation and publication of the Final EIR/EIS, there have been no significant new circumstances or information, or substantial modifications to the ancillary facilities proposed in the Reduced Ridgeline Component Ancillary Facilities that would require additional analysis through preparation of a supplemental EIS. This conclusion is in accordance with agency guidance set forth in the BLM NEPA Handbook (H-1790-1) in Section 5.3. The Handbook addresses regulations issued by the CEQ at 40 CFR 1502.9(c), which call for agencies to prepare supplements to either a Draft EIS or Final EIS if: (i) the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or (ii) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. The BLM has determined that a supplemental analysis is not required based on the following findings:

- No substantial changes have been made to the proposed ancillary facilities in the Reduced Ridgeline Component Ancillary Facilities that are relevant to environmental concerns (40 CFR 1502.9(c)(1)(i))
- No new alternative has been added that is outside the spectrum of alternatives already analyzed (see Question 29b, CEQ, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, March 23, 1981)
- There are no significant new circumstances or information relevant to environmental concerns and bearing on the proposed ancillary facilities in the Reduced Ridgeline Component Ancillary Facilities or their effects (40 CFR 1502.9(c)(1)(ii)).

The ancillary facilities that comprise the Reduced Ridgeline Component Ancillary Facilities were described and analyzed in the Final EIR/EIS. No substantial changes have been made to the proposed ancillary facilities and no significant new information substantially changes the analysis and effects identified in the Final EIR/EIS (40 CFR 1502.9(c)); therefore, supplemental environmental analysis is not required.

3.2 Relationship to Agencies, Plans, Programs, and Policies, Including Consultation

Section 3.2 of the 2011 ROD describes the relationship to agencies, plans, programs, and policies including consultation under ESA Section 7, the NHPA – MOA, the NHPA – Government-to-Government Consultation, the Bald and Golden Eagle Protection Act, the Clean Water Act, Section 109 of the Clean Air Act, and coordination with the U.S. Department of Defense and with other federal, Native American, state, regional, and local agencies. This decision does not affect the BLM and the Tule Wind Project’s compliance with any of the aforementioned acts or responsibilities as described in Sections 3.2.1 through 3.2.8 of the 2011 ROD.

3.3 Land Use Plan Conformance

Section 3.3 of the 2011 ROD describes conformance with existing BLM Land Use Plans and refers to consistency with the County of San Diego General Plan. Approval of the proposed overhead collector line, underground collector line, access road, and two laydown yards is consistent with the plans identified in Section 3.3 of the 2011 ROD.

4. Alternatives (40 CFR 1505.2(b))

In addition to the No Action Alternatives, the Final EIR/EIS analyzed six action alternatives related to the Tule Wind Project. The Alternatives Fully Analyzed and the Alternatives Not Fully Analyzed related to the Tule Wind Project are described in Section 4 of the 2011 ROD.

4.1 Alternatives Fully Analyzed

A Proposed Action, five action alternatives, and two no action alternatives were fully analyzed in the Final EIR/EIS. This consisted of six action alternatives (the Proposed Action and Tule Wind Alternatives 1 through 5) and two No Action Alternatives (No Project Alternative 1 and No Project Alternative 3 – No Tule Wind Project). Tule Wind Alternatives 1–4 consisted of the development of the entire Tule Wind Project, which included the entire ridgeline area of the Proposed Action and the entire valley area of the project. Alternative 5 only considered the valley portion of the project. The alternatives analyzed in the Final EIS/EIR are as follows:

- Tule Wind Alternative 1, Gen-Tie Route 2 with Collector Substation/Operations and Maintenance (O&M) Facility on Rough Acres Ranch;
- Tule Wind Alternative 2, Gen-Tie Route 2 Underground with Collector Substation/O&M Facility on Rough Acres Ranch;
- Tule Wind Alternative 3, Gen-Tie Route 3 with Collector Substation/O&M Facility on Rough Acres Ranch;

- Tule Wind Alternative 4, Gen-Tie Route 3 Underground with Collector Substation/O&M Facility on Rough Acres Ranch; and
- Tule Wind Alternative 5, Reduction in Turbines.

With the exception of the No Action Alternatives, each of the fully analyzed alternatives would develop renewable energy on public lands and would therefore contribute to the BLM's goal for increased renewable energy development on public lands as established by the Energy Policy Act of 2005. The Proposed Action is described in detail in 4.1.1 in the 2011 ROD and the five fully analyzed action alternatives are summarized in Section 4.1.2 of the 2011 ROD. With regard to this specific action, Alternatives 1-4 included the facilities contemplated as part of the Reduced Ridgeline Component Ancillary Facilities. Alternative 5 did not include such facility, because it did not involve any activity along the ridgeline.

4.2 Alternatives Not Fully Analyzed

Sections 4.2.1 and 4.2.3 of the 2011 ROD discuss Alternatives Not Fully Analyzed.

4.3 Environmentally Preferable Alternative

The 2011 ROD states that the Environmentally Preferable Alternative for the Tule Wind Project is the "No Tule Wind Project Alternative." If the "No Tule Wind Project Alternative" had been selected, no ROW would have been issued. Implementation of the Environmentally Preferable Alternative (No Tule Wind Project Alternative) would not achieve the beneficial effects from renewable energy production, including socioeconomic benefits by facilitating wind energy development on the Trust Lands, and displacement of greenhouse gas and air pollutant emissions, which would otherwise be generated through fossil-fueled power plants.

4.4 Agency Preferred Alternative/Selected Alternative

Section 4.4 of the 2011 ROD discusses the Agency Preferred Alternative/Selected Alternative. Collectively, the BLM's Preferred Alternative/Selected Alternative for the Project was the Tule Wind Alternative 5, Reduction in Turbines, combined with Tule Wind Alternative 2, Gen-Tie Route 2 Underground with Collector Substation/O&M Facility on Rough Acres Ranch. The rationale for the Preferred Alternative/Selected Alternative was discussed in Section 3.1 of the 2011 ROD.

This ROD approves the ancillary facilities in the Reduced Ridgeline Component Ancillary Facilities as described and analyzed in the Proposed Action. These ancillary facilities connect certain ridgeline turbines located on non-BLM managed lands with the Authorized Valley Component on public lands. The rationale for this selection of a portion of the Proposed Action and approval is discussed throughout this ROD.

5. Public Involvement

Section 5 of the 2011 ROD describes the public involvement opportunities, including scoping and comment on the Draft EIR/EIS. Because the access road and collector line was fully analyzed in the Final EIR/EIS, and available for public comment in the Draft EIR/EIS, the BLM determined that no additional public involvement was necessary in connection with this ROD.

6. Final Agency Action

6.1 Right-of-Way Authorization(s)

It is my decision to approve the issuance of a ROW grant to Tule Wind LLC, for the Reduced Ridgeline Component Ancillary Facilities, subject to the terms, conditions, stipulations, plan of development, and environmental protection measures developed by the Department of the Interior (DOI) and reflected in this ROD and the 2011 ROD, as amended. This decision is effective on the date this ROD is signed.

Approved by:



Neil Kornze
Principal Deputy Director
Bureau of Land Management
U.S. Department of the Interior

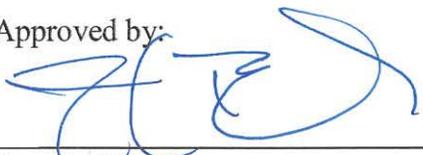
1/10/14

Date

6.2 Secretarial Approval

I hereby approve this decision. My approval of this decision constitutes the final decision of the DOI and, in accordance with the regulations at 43 CFR 4.410(a)(3), is not subject to appeal under departmental regulations at 43 CFR 4. Any challenge to this decision, including the BLM Authorized Officer's issuance of the ROW as approved by this decision, must be brought in the federal district court.

Approved by:



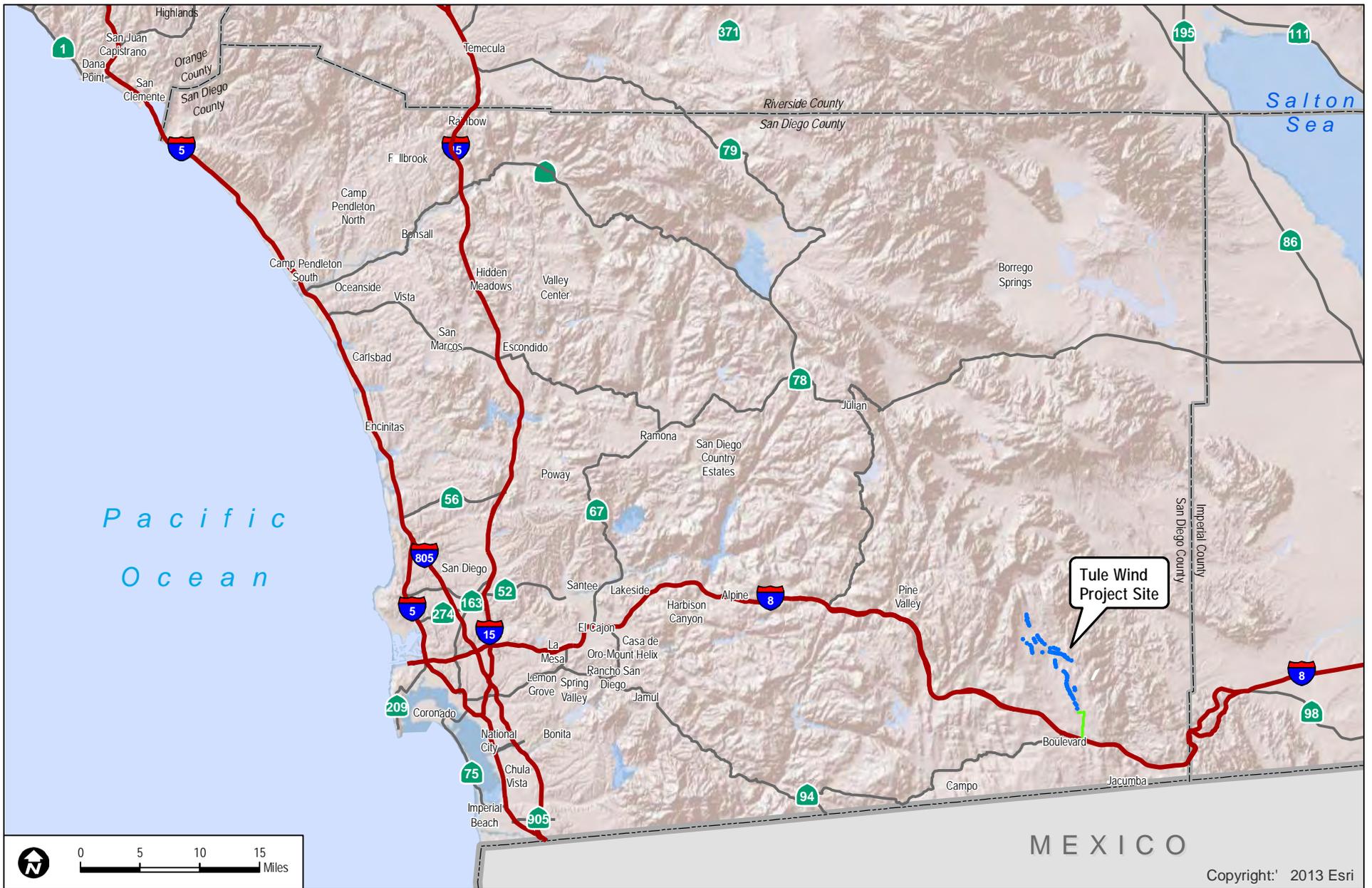
Tommy Beaudreau
Principal Deputy Assistant Secretary for Land
and Minerals Management
U.S. Department of the Interior

1-17-14

Date

ROD Figures

Figure 1 Regional Map



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Tule Wind Project - Record of Decision

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**FIGURE 1
Regional Map**

Figure 2 Tule Wind Project Overview (Figure B-19B, Final EIR/EIS)

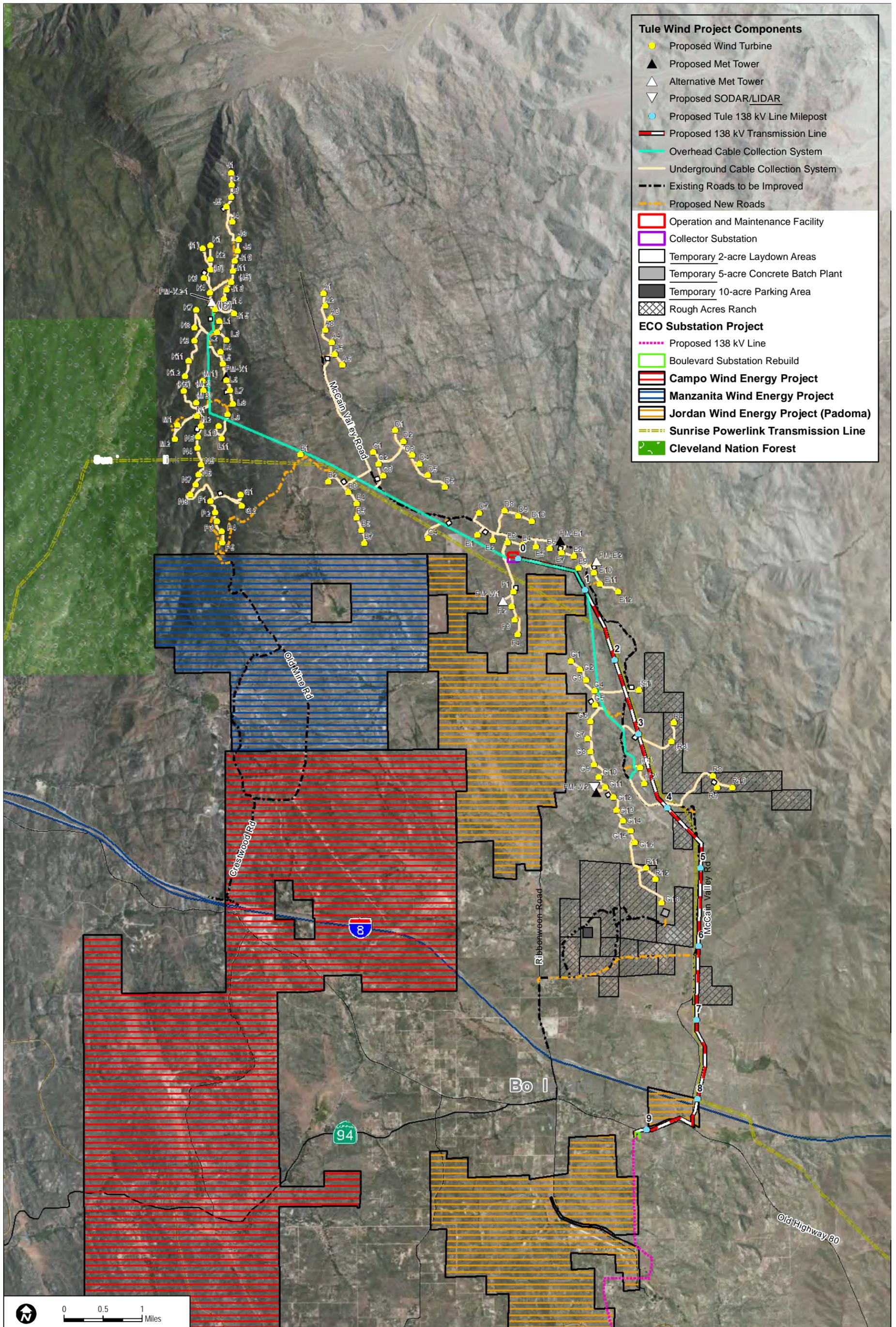


Figure 3 Tule Wind Project Selected Alternative (2011)

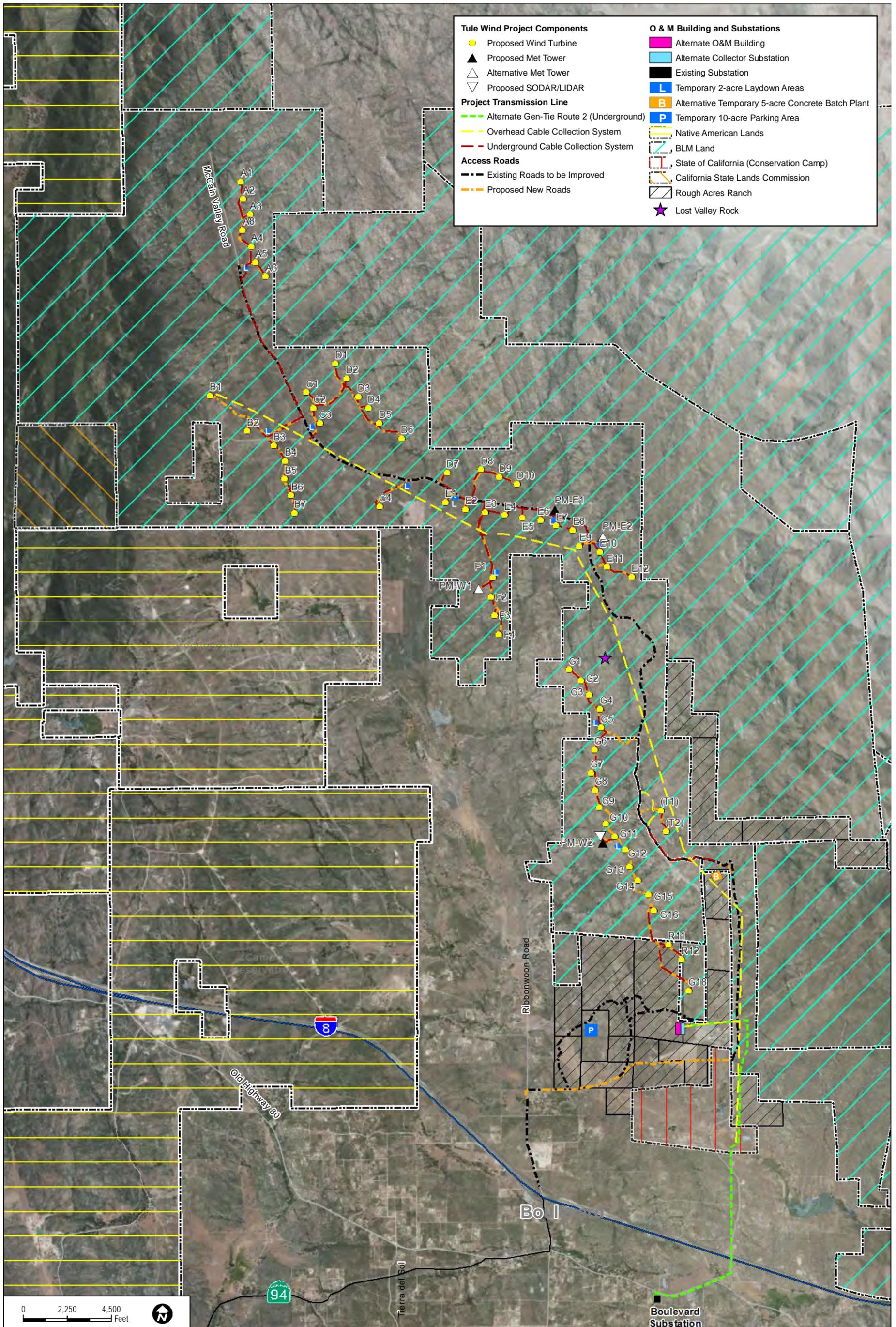
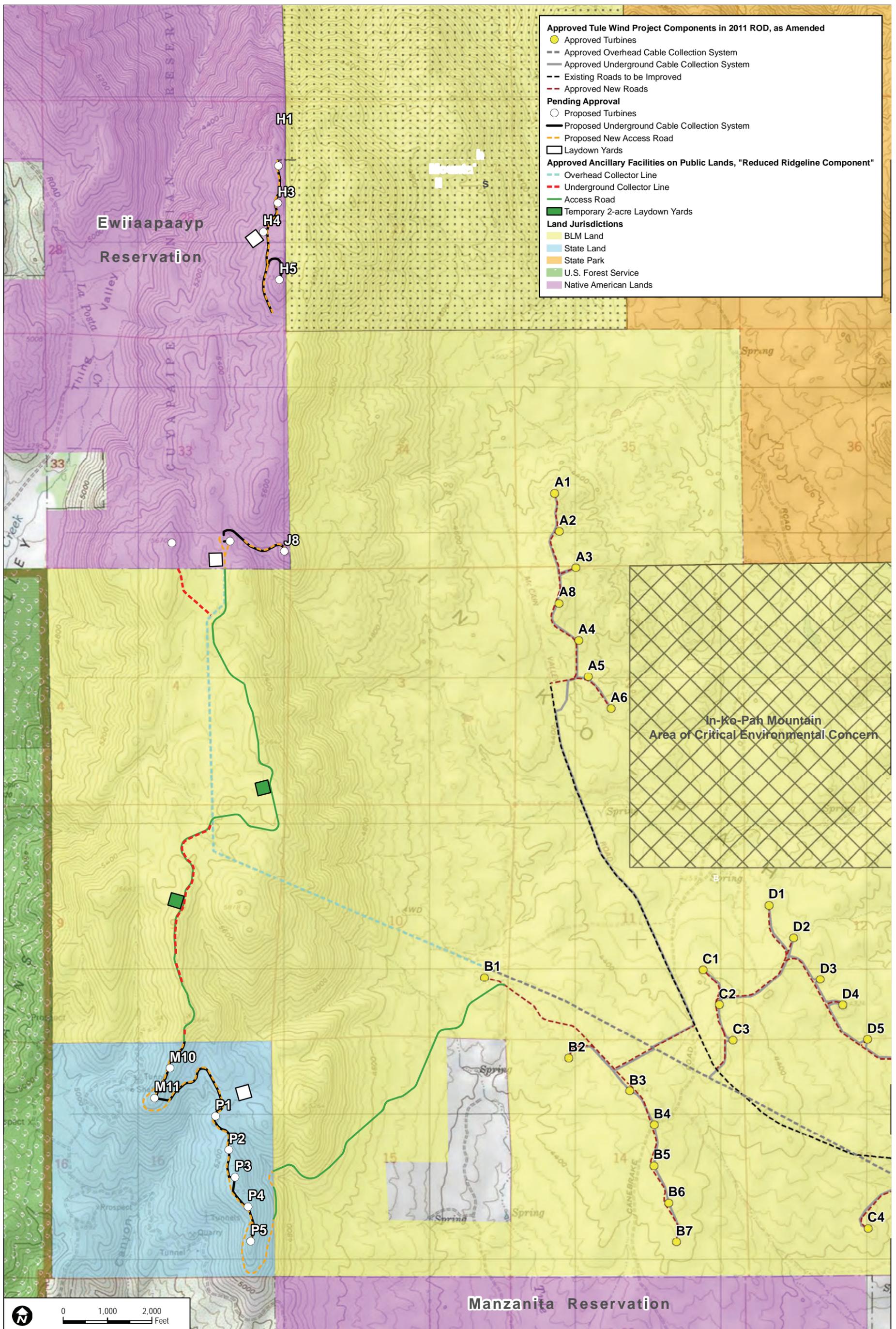


Figure 4 **Approved Overhead collector line, underground collector line, access road, and two laydown yards on BLM-Managed Lands**



**Appendix A: Section 106 Findings and Determination for the Reduced Ridgeline
Component Ancillary Facilities of the Tule Wind Project**

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

CA-670-13-090/DOI-BLM-CA-D070-2008-0040-EIS

Memorandum

To: Field Manager, El Centro Field Office

From: Archaeologist, El Centro Field Office

Subject: Agency Findings and Determinations under Section 106 of the National Historic Preservation Act

Project: Tule Wind Project Ancillary Facilities within the Reduced Ridgeline Component, San Diego County, California

The Bureau of Land Management (BLM) El Centro Field Office is considering issuing a right-of-way (ROW) grant to Tule Wind LLC to construct, operate, maintain, and decommission an overhead collector line, an underground collector line, an access road, and two 2-acre temporary laydown yards on lands managed by the BLM, as identified in the Proposed Action of the *Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS), East County Substation, Tule Wind, and Energia Sierra Juarez Gen-Tie Projects*. Approval of these facilities would facilitate the integration of a portion of the ridgeline component of the Tule Wind Project on Ewiiapaayp Reservation lands to the larger Tule Wind Project, as approved in the 2011 Record of Decision (ROD).

The area covered by the ROW grant request is within the Tule Wind Project area of potential effects (APE) as identified within the Memorandum of Agreement (MOA)¹.

Identification and evaluation efforts for this undertaking were described in the BLM Class III report titled *Class II and Class III Cultural Resources Inventory Report for the Tule Wind Project, McCain Valley, San Diego County, California* (ASM Affiliates, Inc. 2011) prepared for the Tule Wind Project. No archaeological sites have been identified within the area of direct impact for this undertaking as a result of those inventories. The BLM finds that those identification efforts are adequate to identify impacts to historic properties.

Pursuant to the MOA, fully executed on November 16, 2011, the BLM's professional cultural resources staff has reviewed this proposed ROW grant request. Per the MOA and

the 2011 BLM ROD for the Tule Wind Project, the following actions remain applicable to this ROW grant request:

- **CUL-1A: Develop and Implement a Historic Properties Treatment Plan-Cultural Resources Management Plan.**
- **CUL-1B: Avoid and Protect Significant Resources.**
- **CUL-1C: Training for Contractor.**
- **CUL-1D: Construction Monitoring.**
- **CUL-1E: Discovery of Unknown Resources.**
- **CUL-1F: Control Unauthorized Access.**
- **CUL-1G: Funding of Enforcement Patrols.**
- **CUL-1H: Continue Consultation with Native Americans and Other Traditional Groups.**
- **CUL-2: Human Remains.**
- **Tule Wind, LLC will also continue to comply with all other relevant cultural resources mitigation measures as outlined in the MOA and the ROD as appropriate.**

In accordance with Appendix F of the MOA, all archaeological sites and all potentially culturally sensitive areas that are within 100 feet of construction activities shall be demarked as Environmentally Sensitive Areas (ESAs) and protected as exclusionary zones. Additionally, archaeological and Native American monitors are to be on-site during the temporary fencing and during any ground disturbing activities near designated ESAs.

Prior Section 106 review and consultation for the MOA for the Tule Wind Project provide that the required conditions and mitigation measures listed above are adequate to identify and protect historic properties on public lands that might be affected. Therefore, the BLM staff archaeologist has recommended that there would be no adverse effect on historic properties if the above measures are implemented.

The BLM makes the following findings for this undertaking.

1. **The activities covered by this request will take place within the originally defined APE for the Project.**
2. **The BLM finds that there will be *no additional adverse effects to historic properties* with the approval of this ROW grant request provided the above mitigation measures are implemented as required by the MOA and the 2011 ROD.**
3. **Accordingly, the request is covered by the prior consultations for the Project. No additional consultation is required pursuant to the NHPA.**

¹Memorandum of Agreement Among the BLM (California), the Department of Energy, the Bureau of Indian Affairs, the United States Army Corps of Engineers, the Ewiiapaayp 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, San Diego County, California (November 16, 2011).

This memorandum documents the recommendations of the cultural resources staff, the acceptance of these recommendations by the Agency Official (as defined in 36 CFR §800.2(a), Protection of Historic Properties), and constitutes the formal statement of Agency findings and determinations for Section 106 of the National Historic Preservation Act with respect to this request.

Recommended by:

Christina McCollum 4-12-13
Archaeologist, El Centro Field Office Date

Reviewed by:

Cam Sullivan 4/12/13
Archaeologist, El Centro Field Office Date

Acceptance by the Agency Official:

Thomas J. [Signature] 4/12/2013
Field Manager, El Centro Field Office Date