

United States Department of the Interior

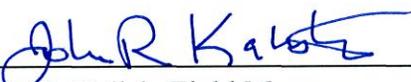
Bureau of Land Management



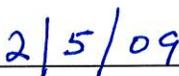
**Record of Decision
for
Mountain View IV Wind Energy Project
Final Environmental Impact Statement**

Prepared by
Department of the Interior
Bureau of Land Management
California Desert District
Palm Springs-South Coast Field Office

Approved:



John R. Kalish, Field Manager
Bureau of Land Management
Palm Springs-South Coast Field Office



Date

DECISION:

This Record of Decision (ROD) approves the construction, operation and maintenance of the proposed Mountain View Power Partners IV, LLC. ; Mountain View IV Wind Energy Project on BLM managed public lands in the City of Palm Springs, Riverside County, California. This project was analyzed as the Proposed Action (Preferred Alternative) in the Mountain View IV Wind Energy Project Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS), dated October, 2008. This approval will take the form of a BLM Right-of-Way Grant under regulations at Title 43, Code of Federal Regulations, Part 2800.

The proposed wind generation project consists of either 49 Mitsubishi Heavy Industries (MHI) 1000A (1,000 kW) wind turbine generators (WTG) or 58 Gamesa Eolica G52 (850 kW) WTG, electrical transformers, gravel roads, underground and overhead interconnection lines, an electrical substation and other ancillary facilities. The total electrical capacity would be either 49 megawatts (MW) under Development Option A (using MHI 1000A turbines) or 49.3 MW using Development Option B (using Gamesa G52 turbines). Option A uses a wind turbine with a larger diameter rotor and a 1,000 kilowatt rating, however, it will employ fewer turbines overall. Option B uses a wind turbine with a smaller rotor and 850 kilowatt rating, however, it will include more turbines. A larger rotor and greater megawatt rated wind turbine requires wider spacing between adjacent turbines than the smaller rotor with the lower megawatt rating.

Two development options and wind turbine types were included in the project description because of uncertainty in wind turbine supply. It is not intended that the project would mix two different types or sizes of wind turbine as the project would have utilize one uniform wind turbine make and model. These two options were given equal weight throughout the EIS/EIR.

The Mountain View IV project would be built on public lands in Sections 22 and 28, under the jurisdiction of the U.S. Department of the Interior, Bureau of Land Management (BLM) along with private land owned by Coachella Valley Water District (CVWD) in Section 27, contiguous on the eastern boundary. Both parcels are within the incorporated limits of the City of Palm Springs. The BLM portion of the project is proposed to include between 21 and 24 wind turbine generators rated at 850 to 1,500 kW (kilowatts) each, for a total of between 20.4 and 21.0 MW capacity. The proposed project in Section 28 replaces an abandoned wind energy project built in the mid-1980's that was removed. An interconnecting line and electrical substation for the wind project are proposed in Section 22. The CVWD portion of the project is subject to a Conditional Use Permit (CUP) through the City of Palm Springs and would include between 28 and 34 wind turbines in Section 27 with up to 28.0 MW in rated capacity. The total installed capacity of the public and private land under either Option A or B would not exceed 50.0 MW.

Public land affected by the project consists of 600 and 7.55 acres in Section 28 and 22 respectively. The total project area on BLM land includes approximately 607.55 acres. The total project area within the Coachella Valley Water District (CVWD) property, on Section 27, includes approximately 630 acres contiguous with the eastern BLM boundary. The entire project site totals 1,237.55 acres.

Of the entire 1,237.55 acre project site, only 26.9 acres would undergo temporary and permanent disturbance. Approximately 10.3 and 16.6 acres of disturbance would occur on BLM and CVWD lands respectively. Portions of this property were found to contain Coachella Valley milkvetch plants and suitable habitat for the Coachella Valley fringe-toed lizard, both federally listed under the Endangered Species Act of 1973, as amended.

Construction would take up to six months. The Federal Aviation Administration (FAA) requires lighting of a portion of the wind turbines with flashing red strobe lights to provide warnings to air traffic. These red spectrum lights would be intermittent and of low intensity. The site will be fenced to restrict public access.

This Right-of-Way Grant will be issued for a term of 30 years with a right of renewal so long as the lands are being used for the purposes specified in the Grant. Mountain View Power Partners IV, LLC may, upon concurrence of the BLM, assign the Right-of-Way Grant to another party. Construction of the project may be phased; however, the BLM requires the initiation of project construction within 18 months of the issuance of a Right-of-Way Grant. This decision is conditioned, however, upon implementation of mitigation measures and monitoring programs as identified in the Final EIR/EIS.

Other Alternatives Considered:

The No Action Alternative, also known as the “No Project” alternative under CEQA, assumes that the project as proposed would not occur and the project site would remain in its present condition consisting of vacant and disturbed desert lands within the 100-year floodplain of the Whitewater River. No environmental consequences associated with construction and operation of the proposed project would occur. No significant unavoidable impacts have been identified, but the projects beneficial impacts related to improved air quality and energy production would not occur.

The Reduced Development Alternative assumes development would occur only on BLM land within Section 28 with the same number of wind turbines as proposed for that portion of the project. The total number of turbines to be installed under this alternative would therefore be 21 under Option A and 24 under Option B. The extension of utility lines and an electrical substation on BLM land in Section 22 would also be required with either development option. Each row of wind turbines will be accessed by a network of existing gravel roads that will only require minimal refurbishment to bring them up to current road standards, thereby minimizing site disturbance. New underground electrical lines, communications lines and a communication system will be installed in the same area where previous facilities were located. The perimeter of Section 28 is surrounded on the north, east and south by an existing three-strand barbed wire fence to minimize unauthorized entry and off-road vehicle use of the site, while still allowing wildlife movement. This alternative results in a reduction of approximately 5.8 – 6.1 acres in overall site disturbance as compared to the proposed project due to use of existing roads within Section 28.

MANAGEMENT CONSIDERATIONS:

Rationale for the Decision: This decision approves the Mountain View IV Wind Energy Project as analyzed in the October, 2008 Final EIR/EIS. BLM's decision to authorize these activities is based on the following rationale:

The factors considered by BLM in approving the decision contained herein include: alternatives described in the Draft EIR/EIS; impacts from those alternatives; mitigation of significant environmental impacts; the purpose and need for action; public and agency input provided throughout the planning process; and project conformance with the following land use factors:

- i. BLM policy and guidance for issuing Rights-of-Way including BLM Manual 2801.11;
- ii. California Desert Conservation Area Plan of 1980, as amended ("CDCA Plan");
- iii. BLM's Wind Energy Development Program;
- iv. Coachella Valley Multiple Species Habitat Conservation Plan (MSHCP).

As discussed in the following section, the approved project incorporates all practicable measures to reduce potentially significant impacts in the areas of air quality, biological resources, cultural resources, geology/soils, hydrology/water quality, public health and safety, and noise.

The Applicant, Mountain View Power Partners IV, LLC ("Mountain View IV"), has acquired a 20 to 25-year power purchase contract with a major electric utility to supply 100% wind generated electrical energy. Increasing demand for renewable energy in California has resulted from both state legislation and federal policies and goals, as well as increased retail demand for electricity. Federal policies include the Energy Policy Act of 2005 signed into law by President Bush in August, 2005, and the Clinton Administration's Windpowering America initiative. State legislation and policies include the Renewables Portfolio Standard SB 1078 of 2002 and SB 1038 of 2002. In response to these laws, policies and the market need for pollution-free electricity, private companies are moving to provide wind generated electricity on suitable sites in California. This renewable energy provides public benefits by reducing pollutants believed to contribute to global warming and reducing health affecting pollutants such as NO_x, SO_x, CO₂, metals and particulates which would otherwise be generated by conventional fossil fuel fired electrical generating plants. Renewable energy also contributes to energy independence by lessening use of imported fossil fuels.

There are no un-mitigatable adverse impacts to federally listed, threatened, or endangered plant or animal species. The effects of this project on the federally endangered Coachella Valley milk-vetch (*Astragalus lentiginosus* var. *coachellae*; milk-vetch), and the federally threatened Coachella Valley fringe-toed lizard (*Uma inornata*; fringe-toed lizard) have been thoroughly analyzed in this EIR/EIS. The U.S. Fish and Wildlife Service (FWS) has issued a Biological Opinion (#99B0002-07F0042), dated May 22, 2008, for this project in accordance with section 7

of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.). The FWS determined that this project will not jeopardize the continued existence of these species.

The project will not adversely modify critical habitat for these species since none exists on these lands. In addition, the FWS issued an incidental take statement for this project and directed the implementation of specified conservation measures.

There are no direct adverse effects on cultural resources eligible for listing in the National Register of Historic Places (NRHP) as well as no other impacts to other cultural or paleontological resources identified with this project. Mitigation requirements for the project include cultural and paleontological monitoring and provisions for protecting any resources discovered during construction.

Mitigation and Monitoring Requirements:

The Mitigation Monitoring, Compliance, and Reporting Program (MMCRP) for this project is located in Section G of the Final EIR/EIS. This plan is available in its entirety on the following BLM web site under:

http://www.blm.gov/ca/st/en/fo/palmsprings/national_environmental.html

The BLM is a lead agency, along with the City of Palm Springs, in ensuring compliance with all adopted mitigation measures. The BLM would incorporate this mitigation into the right-of-way grant as terms and conditions. Failure on the part of the grant holder to adhere to these terms and conditions could result in various administrative actions up to and including a termination of the grant and requirements to remove the facility and rehabilitate disturbances. All measures to avoid or mitigate environmental harm have been adopted under this decision.

Major elements of this mitigation/monitoring plan are:

1. Reduce NO_x emissions with the maximum use of CARB-certified Tier 3 diesel engines for heavy on-site equipment and engines which utilize aqueous diesel fuel;
2. Reduce PM₁₀ or fugitive dust emissions by preparing an enhanced dust control program (“DCP”) that exceeds the minimum dust control requirements contained in SCAQMD Rule 403;
3. Designate a field contact representative (FCR) who will be responsible for overseeing compliance with protective measures for the Coachella Valley fringe-toed lizard (CVFTL) and the Coachella Valley milkvetch;
4. Prepare and present an endangered species education program to all employees/contractors involved in any construction activities;
5. Locations of poles, guy anchors, and trenches, shall be chosen to avoid habitat suitable for CVFTL and CV milkvetch to the maximum extent possible;
6. Poles and guy wires installed by avoiding crushing or removing perennial vegetation to the maximum extent possible;
7. All vehicles shall be confined to existing access routes or previously disturbed areas to the maximum extent possible;

8. A qualified biological monitor as defined in the Flat-tailed Horned Lizard (FTHL) Rangewide Management Strategy shall be present during construction;
9. The biological monitor/FCR shall survey the construction area for CV milkvetch and any CV milkvetch plants present shall be marked with a flagged stake;
10. Desert willow hummocks shall be avoided, with no disturbance to occur within five (5) meters;
11. If any triple-ribbed milkvetch are found, the ROW Holder shall suspend operations in the vicinity;
12. The FCR/biological monitor shall maintain a record of the date, time and location of all fringe-toed lizards, milkvetch species, and FTHL found in the right of way;
13. Within 90 days of completion of the work, the FCR shall prepare and submit (to BLM and USFWS) a brief report summarizing the project;
14. All trash and food items shall be properly contained and regularly removed from the Project site;
15. No pets shall be permitted on the project site;
16. A focused survey for burrowing owl shall be conducted within Section 27 prior to project construction-related ground disturbance;
17. If burrowing owls are present which could be affected by project construction, the approved biologist shall develop a program to mitigate impacts to this species either through avoidance or by passive relocation;
18. The applicant shall consult with the California Department of Fish and Game (CDFG), prior to project construction to determine whether a streambed alteration agreement is required;
19. The applicant will construct sand fencing on the Whitewater Preserve, east of North Indian Canyon Road in Section 26;
20. The applicant is required to provide mitigation for loss of Coachella Valley fringe-toed lizard habitat through payment of mitigation fees in the amount set by the Coachella Valley Multi Species Habitat Conservation Plan (CVMSHCP);
21. All protected cactus species to be removed by the project shall be flagged and transplanted back on site in an undisturbed area prior to construction;
22. A post-construction avian and bat fatality survey will be conducted over a 12 month period beginning with commencement of commercial operation of the turbines;
23. If human remains are exposed during construction on non-federal land, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made the necessary findings as to the origin and disposition pursuant to Public Resources Code 5097.98; If human remains are exposed during construction on federal lands, the BLM shall also be notified;
24. Any buried cultural materials unearthed during earth-moving operations associated with the undertaking should be examined and evaluated by a qualified archaeologist prior to further disturbances; The BLM shall be notified if these materials occur on federal lands;
25. The excavation of areas greater than fifteen (15) feet shall be monitored by a qualified paleontological monitor;
26. If paleontological specimens are found when excavation exceeds fifteen (15) feet, specimens shall be identified, curated, and placed into a repository with permanent retrievable storage;

27. The geotechnical engineering recommendations shall be consulted and implemented during project design and construction;
28. Permanent structures shall be designed by a professional engineer using, at a minimum, the latest seismic safety design standards outlined in the 2001 edition of the California Building Code for Seismic Zone 4;
29. Conditions of approval for the project will require the implementation of NPDES Best Management Practices (BMP) during construction;
30. The project will implement the City's and BLM's safety setbacks (except at the internal boundary between Sections 27 and 28), and employ a modern turbine structurally designed to withstand large seismic events (magnitude 8.0), high winds (up to 130 mph), and flooding;
31. The project proponent shall secure all appropriate amendments to right-of-ways or corresponding instruments from the Southern California Gas Company;
32. Contract specifications shall require the grading contractor to contact the Southern California Gas Company prior to the issuance of grading permits to ensure that pipelines are properly located;
33. If the facility exceeds the 1,320 gallons threshold for petroleum products, the operator shall be required to prepare and observe a Spill Prevention Control and Counter Measure plan;
34. The applicant shall file an NOI with the RWQCB to obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activity and shall implement a Storm Water Pollution Prevention Plan (SWPPP) concurrent with the commencement of grading and construction activities;
35. The project proponent shall comply with all identified provisions in the municipal code pertaining to elevation of all mechanical and electrical equipment to a minimum of 2 feet above base flood elevation, equivalent to 4 feet above natural grade and that all structures shall be constructed with foundations adequate to withstand maximum scour potential during a 100 year flood event; and
36. The project will adhere to local noise ordinances during construction and project operation to keep noise levels lower than the City's 55dB noise criterion.

Public Involvement:

A Notice of Intent (NOI) was published in the Federal Register June 5, 2006 announcing the preparation of a joint EIR/EIS for the Mountain View IV Wind Energy Project. Public scoping meetings were held on:

- May 25, 2006 at the City of Palm Springs Council Chambers; and
- June 27, 2006 at the Desert Highland Community Center, Palm Springs;

The scoping process for the Mountain View IV Project was designed to solicit input from the public; from federal, State, and local agencies; and from other interested parties on the scope of issues that should be addressed in the Draft EIR/EIS. The scoping process was also intended to identify significant issues related to the project. The project and alternatives were revised to address comments and concerns raised during the scoping process.

Review of Draft EIR/EIS:

A Notice of Availability (NOA) for the Draft EIS/EIR was published in the Federal Register on April 19, 2007. This initiated a 60-day public comment period. A public meeting was held on April 17, 2007 at the BLM Palm Springs-South Coast Field Office to gather comments from the public on this EIS/EIR.

Review of the Final EIS/EIR:

A NOA for the Final EIR/EIS was published in the Federal Register, November 7, 2008. This started a 30-day public review period for the Final EIR/EIS. The BLM has considered all comments received on the Final EIR/EIS in the development of this ROD. In addition, the BLM will:

1. Distribute a news release about the ROD in the local and regional media;
2. Send the ROD to all those on the distribution list; and
3. Will make the ROD available on the BLM web site and to all that request a copy.

Summary of Comments:

The BLM received only one comment letter on the Final EIR/EIS from the U.S. Environmental Protection Agency, Region IX, San Francisco, California. This letter, dated November 21, 2008, stated that all EPA comments on the draft EIR/EIS were addressed and that they have no objections to information presented in the Final EIR/EIS.

APPEALS:

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations at Title 43 of the Code of Federal Regulations (CFR), Part 4. Public notification of this decision will be considered to have occurred on the signature date of the decision. Within 30 days of the decision, a notice of appeal must be filed in the office of the authorized officer at the Bureau of Land Management, Palm Springs-South Coast Field Office, 1201 Bird Center Drive, Palm Springs, CA 92262. The appellant has the burden of showing the decision appealed from is in error. If a statement of reasons for the appeal is not included with the notice, it must be filed with the IBLA, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

To file a petition for a stay of the effectiveness of this decision during the time that an appeal is being reviewed by the Board, pursuant to Title 43, CFR, Part 4.21(b), the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the criteria listed below.

- (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 a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken; and with the IBLA at the same time it is filed with the authorized officer.

A copy of the notice of appeal, any statement of reasons, and all pertinent documents must be served on each adverse party named in the decision for which the appeal is taken and the Office of the Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, CA 95825; not later than 15 days after filing the document with the authorized officer and/or IBLA.

Within 15 days after any document is served on an adverse party, proof of that service must be filed with the IBLA at the above address. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).