



United States Department of the Interior



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In Reply Refer To:
2860 (NVL0200)
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DECISION RECORD

Spring Valley Wind LLC
1600 Smith Street, Suite 4025
Houston, Texas 77002

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Decision Record
DOI-BLM-NV-L020-2010-0007-EA

I have reviewed the application, the Final Environmental Assessment (EA) (DOI-BLM-NV-L020-2010-0007-EA), and have issued a Finding of No Significant Impact (FONSI) for Spring Valley Wind LLC’s proposal for the Spring Valley Wind Energy Facility (SVWEF) Project. It is my decision to approve the Alternate Development Alternative, Osceola Switchyard, and mineral material sales as described in the EA. The construction, operation, and reclamation design features (section 2.1.4 of EA) and mitigation measures outlined below would be adhered to:

In accordance with 43 CFR 2801.10(b), this Decision is in full force and effective immediately. There will be no ground disturbing activities until a Notice to Proceed (NTP) is issued.

Facility Commitments

- Use existing roads and utility corridors – The primary north-south road follows an existing dirt road, and the project will tie into the existing 230-kV line.
- Use tubular conical steel turbine towers – Tubular towers do not provide locations for raptors to perch, which decreases the risk of collisions with turbine blades.
- Underground collection system – Reduces the visual impact of overhead transmission as well as the potential impact to avian and bat species from collisions.
- Setbacks – Turbines would be set back from public roads at least 1.1× total turbine height and would be set back 1.5× total turbine height from any property lines and ROW boundary.

Construction, Operation, and Decommissioning Commitments

- Construction vehicle movement within the project boundary would be restricted to predesignated access, contractor-required access, and public roads.

- A qualified third-party contractor will serve as an Environmental Inspector to ensure compliance with all project authorizations, permits, and approvals.
- In construction areas where ground disturbance is unavoidable, surface restoration would consist of recontouring and reseeded with a BLM-approved seed mix. A full list of BMPs would be included in the project's Construction, Operation, and Maintenance (COM) Plan.
- Geotechnical investigations will be done for each turbine to ensure not to puncture and dewater the aquifer. Specific measures will be developed as needed to address geotechnical issues.
- If the perching ground water layer, as identified by the onsite geologist or geotechnical engineer or engineer's representative is breached, the hole or breach point will be seal grouted to preserve the subsurface hydrology that feeds the local system.
- For all excavations, the crews will be instructed to minimize the period of time that a trench or hole is open; however, in some cases excavations will be left open overnight or for several days in the case of turbine foundations. For all excavations left overnight, measures will be put in place to prevent injury to wildlife. Those measures include either covering holes or installing temporary visible barriers around trenches/holes. All turbine foundations will also have ramps that would allow animals to climb out.
- The Traffic Management Plan (see final EA Appendix B) will be followed for the site access roads to ensure that no hazards would result from the increased truck traffic and that traffic flow would not be adversely impacted. This plan shall incorporate measures such as informational signs, flaggers when equipment may result in blocked throughways, and traffic cones to identify any necessary changes in temporary lane configuration. Additionally, SVW would consult with local planning authorities regarding increased traffic during the construction phase, including an assessment of the number of vehicles per day and their size and type.
- A detailed transportation plan/route study will be completed following the transportation planning requirements described in Appendix B of the final EA.
- The Lighting Plan (see final EA Appendix C) will be followed to ensure that lighting is installed to meet safety and FAA requirements as well as to reduce night sky lighting and wildlife effects.

Resource Conservation Measures

- Measures from the PEIS would be followed as shown in Table 6.2-1 of the final EA.
- Cultural Resources Monitoring and Discovery Plan (final EA Appendix E) – The plan describes procedures to follow in accordance with state and federal laws, if archaeological materials or human remains are discovered. Adherence to this plan will protect cultural resources that are discovered, assist construction personnel in complying with applicable laws, and expedite the project in the event of discovery.
- Direct avoidance of any eligible cultural resources.
- A worker education awareness program providing instruction on avoiding harassment and disturbance of wildlife, especially during reproductive (e.g., courtship, nesting)

seasons, will be provided to all construction employees prior to ground breaking activities.

- Avian and Bat Protection Plan (ABPP) (final EA Appendix F) – The plan describes initial mitigation requirements, post-construction monitoring requirements, and an adaptive mitigation strategy. The plan uses a tiered approach that would result in different levels of mitigation being implemented based on the findings of postconstruction monitoring.
- Facilities shall be designed to discourage their use as perching or nesting substrates by birds. For example, power lines and poles shall be configured to minimize raptor electrocutions and discourage raptor and raven nesting and perching. The BLM and the project proponent will consult with Nevada Department of Wildlife (NDOW) on the final deterrent design.
- Migratory birds – If construction is planned between March 15 and July 30, migratory bird clearance surveys would be conducted no more than one week before construction. Evidence of active nests or nesting would be reported immediately to the BLM to determine appropriate minimization measures (i.e., avoidance buffer would be established until birds have fledged the nest) on a case-by-case basis.
- Nest surveys will be conducted prior to the nesting season (approximately March 15 to July 30) and once each month during the nesting season during the first three years and every fifth year after that. Aerial or ground based raptor nest surveys will be conducted within the entire project area and a 1-mile buffer for raptors, except for golden eagles. Golden eagle search distances will be 10 miles from the project area based on current USFWS guidance. The complete 10-mile search area will be limited to once at the beginning of the golden eagle nesting season with monthly follow-up surveys only being completed for identified golden eagle or potential golden eagle nests. Disturbance will not occur from May 1 through July 15 within 0.5 mile of any raptor nest site that has been active within the past 5 years. See Appendix F, Section 4.5 of the final EA for further details on this measure. If a bird nest is found to be in use, the Technical Advisory Committee (TAC) would recommend necessary action based on the ABPP (see Appendix F of the final EA).
- All new above ground poles and transmission lines installed will be constructed to Avian Powerline Interaction Committee (APLIC 2006) standards to reduce the likelihood of collision and electrocution.
- Where appropriate, permitted activities would be restricted from March 1 through May 15 within 2 miles of an active greater sage-grouse lek.
- As part of the project, the project proponent has volunteered to donate \$500,000 to enhance sagebrush habitat that supports species such as the greater sage-grouse. Funds would be deposited into NDOW's Non-Executive Account and marked specifically for purposes of sagebrush restoration efforts, which could include permitting, equipment and seed purchase, labor, and other necessities for restoration. An effort must first be made to apply the funds to sagebrush restoration within Spring Valley and then outside of the valley if necessary. Donations into this account are eligible for matching federal funding. All decisions of how to utilize the money will require both NDOW and the BLM approval.

- Where appropriate, permitted construction activities would be restricted from November 1 through March 31 within greater sage-grouse winter range. If activities must occur during that time, a survey would occur prior to work to determine whether greater sage-grouse are present. Pedestrian transect surveys spaced 300 feet apart would be conducted within the proposed areas of disturbance and a ¼ mile buffer. If individuals are not present, work may commence; if individuals are present, the BLM would determine necessary action such as requiring an on-site biological monitor or restricting work areas until sage-grouse have left the project area.
- A site-specific Stormwater Pollution Prevention Plan (SWPPP) would be prepared following the requirements outlined in the project SWPPP and SPP (see Appendix D of the final EA).
- Restoration and Weed Management Plan – A Restoration and Weed Management Plan has been completed for the project (see Appendix A of the final EA) and would be followed.
- Micrositing of staging and temporary use areas will be completed as practicable to avoid winterfat-dominated sites.
- For soil-disturbing actions that would require reclamation, salvage and stockpile all available growth medium prior to surface disturbances. Seed stock piles if they are to be left for more than one growing season. Recontour all disturbance areas to blend as closely as possible with the natural topography prior to revegetation. Rip all compacted portions of the disturbance to an appropriate depth based on recognizable soil compaction indicators, i.e., platy soil structure. Establish an adequate seed bed to provide good seed to soil contact.
- Any swamp cedar that must be removed would be made available for education, scientific, and research purposes as determined by the BLM.
- Measures for reducing the spread and establishment of noxious and invasive weeds have been incorporated into the Restoration and Weed Management Plan in Appendix A of the final EA. The plan addresses monitoring, education of personnel on weed identification, the manner in which weeds spread, and methods for treating infestations. The use of certified weed-free mulching is required. Trucks and construction equipment (including mobile office trailers, etc) arriving from other locations would have a controlled inspection and a cleaning area would be established to visually inspect equipment arriving at the project area and to remove and contain seeds that may be adhering to tires and other equipment surfaces.
- If pesticides are used on the site, an integrated pest management plan shall be developed to ensure that applications would be conducted within the framework of BLM and U.S. Department of the Interior policies and entail only the use of U.S. Environmental Protection Agency (EPA)-registered pesticides. Pesticide use shall be limited to non-persistent, immobile pesticides and shall only be applied in accordance with label and application permit directions and stipulations for terrestrial and aquatic applications.
- Weed management in areas of special status species will carefully consider the impacts of the treatment on the organism. Whenever possible, manual control or spot treatment using herbicides is preferred over less species specific methods. Do not conduct noxious

and invasive weed control within 0.5 mile of nesting and brood rearing areas for special status species during the nesting and brood rearing season.

- All straw, hay, straw/hay, or other organic products used for reclamation or stabilization activities must be certified that all materials are free of plant species listed on the Nevada noxious weed list or specifically identified by the Ely District Office. Inspections would be conducted by a weed scientist or qualified biologist.
- Where appropriate, vehicles and heavy equipment used for the completion, maintenance, inspection, or monitoring of ground-disturbing activities; for emergency fire suppression; or for authorized off-road driving would be free of soil and debris capable of transporting weed propagules. Vehicles and equipment would be cleaned with power or high-pressure equipment prior to entering or leaving the work site or project area. Vehicles used for emergency fire suppression would be cleaned as a part of check-in and demobilization procedures. Cleaning efforts would concentrate on tracks, feet, or tires and on the undercarriage. Special emphasis would be applied to axles, frames, cross members, motor mounts, on and underneath steps, running boards, and front bumper/brush guard assemblies. Vehicle cabs would be swept out, and refuse would be disposed of in waste receptacles. Cleaning sites would be recorded using global positioning systems (GPS) or other mutually acceptable equipment and provided to the Ely District Office Weed Coordinator or designated contact person.
- Prior to the entry of vehicles and equipment to a planned disturbance area, a weed scientist or qualified biologist would identify and flag areas containing weeds. The flagging would alert personnel or participants to avoid areas of concern whenever possible.
- To minimize the transport of soil-borne noxious weed seeds, roots, or rhizomes, infested soils or materials would not be moved and redistributed on weed-free or relatively weed-free areas. In areas where infestations are identified or noted and infested soils, rock, or overburden must be moved, these materials would be salvaged and stockpiled adjacent to the area from which they were stripped. Appropriate measures would be taken to minimize wind and water erosion of these stockpiles. During reclamation, the materials would be returned to the area from which they were stripped.
- A 3.6-mile-long fence would be constructed outside the northeast corner of the project area to keep cattle in the Bastian Creek Allotment from entering the project area during construction and rehabilitation. The new fence would tie with existing fences associated with management of the grazing allotment. SNWA owns 80 acres with a water source for grazing animals at the northeast corner of the project area. A fence surrounding the SNWA 80-acre parcel would also be constructed with gates allowing access from inside and outside the project area.
- A 5.6-mile-long fence would be constructed on the west side of the project area to connect with existing fences in order to keep cattle in the Majors Allotment from entering the project area during construction and rehabilitation. Cattle guards will be added at the two road crossings along the fence line. The fence specifications would be the same as those for the Bastian Creek fence described above.
- Subject to FAA approval, an intelligent on-demand lighting system would be installed on WTGs.

Ely Resource Management Plan/Final Environmental Impact Statement (RMP/FEIS)-
Adopted Mitigation Measures (Appendix F, Section 3)

- All control and mitigation measures established for the project in the POD and resource-specific management plans that are part of the POD shall be maintained and implemented throughout the construction and operation phases, as appropriate. The number and size/length of roads, temporary fences, laydown areas, and borrow areas shall be minimized.
- Roads shall be located away from drainage bottoms and avoid wetlands, if practicable.
- Access roads shall be located to minimize stream crossings. All structures crossing streams shall be located and constructed so that they do not decrease channel stability or increase water velocity. Operators shall obtain all applicable federal and state permits.
- Ongoing ground transportation planning shall be conducted to evaluate road use, minimize traffic volume, and ensure that roads are maintained adequately to minimize associated impacts.
- Inoperative turbines shall be repaired, replaced, or removed in a timely manner. Requirements to do so shall be incorporated into the due diligence provisions of the ROW authorization. Operators will be required to demonstrate due diligence in the repair, replacement, or removal of turbines; failure to do so could result in termination of the rights-of-way authorization.
- Prior to the termination of the rights-of-way authorization, a Decommissioning Plan shall be developed and approved by the BLM. The Decommissioning Plan shall include a Site Reclamation Plan and monitoring program. The Reclamation Plan is available in Appendix A of the final EA.
- All management plans, BMPs, and stipulations developed for the construction phase shall be applied to similar activities during the decommissioning phase.
- Site monitoring protocols defined in the POD shall be implemented. These will incorporate monitoring program observations and additional mitigation measures into standard operating procedures and BMPs to minimize future environmental impacts.
- Results of monitoring program efforts shall be provided to the BLM authorized officer.

Project-Specific Mitigation

- Prior to construction, a botanist approved by the BLM will identify potential habitat for Parish phacelia within 100 feet of the limits of construction disturbance and conduct site-specific surveys in those areas during the appropriate flowering season (April through August).
- Following construction activities, as described in the Restoration and Weed Management Plan (see Appendix A of the final EA), use soil and rock stain on restored areas to reduce the visible color contrast between bare soil and vegetation.
- Per SHPO requirements, complete detailed recordation and specific photo documentation (prior to construction), of any eligible sites that would be visually impacted by the project, this will be completed to SHPO (2010) standards.

AUTHORITIES:

- 1) The Alternate Development Alternative is in conformance with the Ely District Record of Decision and Approved Resource Management Plan. Section 2.6 of the final EA documents the conformance with BLM Land Use Plan.
- 2) The Alternate Development Alternative is also consistent with all relevant federal, state, and local statutes, regulations, and plans as described in section 2.7 of the final EA. The known federal, state, and local agencies' approvals, reviews, and permitting requirements that are anticipated to be needed for these new electrical facilities are in Table 2.7-1, of the final EA.

RATIONALE FOR DECISION:

In the FONSI for the proposed SVWEF, a determination was made that the Selected Alternative will not significantly affect the quality of the human environment and that preparation of an Environmental Impact Statement is not required. The Selected Action (Alternate Development Alternative) meets the BLM's need for the action; to respond to SVW's application under Title V of the Federal Land Policy and Management Act (FLPMA) (43 United States Code [USC] 1761) for a ROW grant to construct, operate, and decommission wind energy generation facilities and associated infrastructure in accordance with FLPMA, BLM ROW regulations, and other applicable federal laws, additionally, the BLM has a need to respond to SVW's application for mineral materials sites (Gravel Pits A and B) and to their application for the construction and operation of the Osceola Switchyard.

The final EA analyzed three alternatives; the Proposed Action, The Alternate Development Alternative, and the No Action Alternative. In addition to meeting the purpose and need for action, the Alternate Development Alternative was selected over the other alternatives because it meets the purpose and need for action and results in the least amount of environmental impact as summarized in section 2.4 Comparison of Alternatives, in the final EA.

PUBLIC INVOLVEMENT:

The revised preliminary EA was published on July 17, 2010 and made available for public input until August 18, 2010. An unsigned draft FONSI was also issued for public comment based on BLM Handbook H-1790-1, section 8.4.2. Thirty-five comment letters containing 465 comments were received from 7 government agencies, 2 businesses, 14 individuals, 10 organizations, and 2 tribes. For a detailed summary of the comments received and how BLM addressed these comments in preparing the final EA, refer to Appendix H of the final EA. The final EA for the Spring Valley Wind Energy Facility Project is available on the BLM's web site at www.nv.blm.gov/ely, or contact the Ely BLM District Office (775-289-1800).

APPEALS:

This decision may be appealed to the Interior Board of Land Appeals (Board), U. S. Department of the Interior (DOI) Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4. The appellant has the burden of showing that the decision appealed from is in error. If an appeal is taken, a notice of appeal must be filed at the Bureau of Land Management at the address below within 30 days either of receipt of the decision if served a copy of the document, or otherwise within 30 days of the date of the decision. If sent by United States Postal Service, the notice of appeal must be sent to the following address:

Bureau of Land Management
Ely District Office
HC 33 Box 33500
Ely, NV 89301.

The appeal may include a statement of reasons at the time the notice of appeal is filed, or the statement of reasons may be filed within 30 days of filing this appeal. At the same time the original documents are filed with this office, copies of the notice of appeal, statement of reasons, and all supporting documentation also must be sent to each party named in this decision and to the U. S. DOI Solicitor at the following address:

Regional Solicitor, Pacific Southwest Region
U.S. Department of the Interior
2800 Cottage Way, Room E-2753
Sacramento, CA 95825-1890

If a statement of reasons is filed separately from the notice of appeal, it also must be sent to the following location within 30 days after the notice of appeal was filed:

Interior Board of Land Appeals
Office of Hearings and Appeals
4015 Wilson Boulevard
Arlington, VA 22203

This Decision will remain in effect during the appeal unless a petition for stay is granted. If the appellant wishes to file a petition pursuant to regulations at 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that the appeal is being reviewed by the Board, 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 standards listed below. If the appellant requests a stay, the appellant has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or by 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.

Approved by:

Mary D'Aversa
Mary D'Aversa
Field Manager
Schell Field Office

10/15/2010
Date