

RECORD OF DECISION

March 2013

Searchlight Wind Energy Project

APPLICANTS

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GENERAL LOCATION

The proposed action is located on public lands administered by the Bureau of Land Management in Clark County, Nevada, near the town of Searchlight.

BLM CASE FILE SERIAL NUMBERS

N-084626
N-086777

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EXECUTIVE SUMMARY

This document constitutes the Record of Decision (ROD) of the Department of Interior (DOI) and the Bureau of Land Management (BLM) for the Searchlight Wind Energy Project Environmental Impact Statement (EIS). This ROD includes right-of-way (ROW) grant decisions and applies only to BLM-administered lands.

After extensive environmental analysis, consideration of public comments, and application of pertinent Federal laws and policies, it is the decision of the DOI to approve the Searchlight Wind Energy, LLC (SWE) Project - 87 Wind Turbine Generator (WTG) Layout, including associated infrastructure and a switching station to interconnect the power generated from the wind facility to the electrical grid system. It is the decision of the BLM to authorize ROW grants for (1) the construction, operation, maintenance, and decommissioning of the wind facility proposed by SWE; and (2) the construction, operation, and maintenance of the switching station proposed by Western Area Power Administration (Western). These decisions approve the BLM Preferred Alternative identified in the Final Environmental Impact Statement (FEIS), which was made available to the public with notices published in the Federal Register on December 14 and 18, 2012. The FEIS is available online at:
http://www.blm.gov/nv/st/en/fo/lvfo/blm_programs/energy/searchlight_wind_energy.html.

The FEIS analyzed the environmental impacts of the SWE Project Proposed Action - 96 WTG Layout, as well as the BLM Preferred Alternative - 87 WTG Layout, and a No-Action Alternative. Two potential alternatives, a 161 WTG and a 140 WTG Alternative were also considered, but eliminated from detailed evaluation. In addition, three potential alternative sites for the switching station were considered, but eliminated from detailed evaluation.

The selected alternative would be located on public lands administered by the BLM in southern Clark County, Nevada near the town of Searchlight; approximately 1.5 miles west of the western border of National Park Service (NPS) Lake Mead National Recreation Area (NRA); 60 miles southeast of Las Vegas; and 40 miles north of Laughlin. Specifically, the project area is to the northeast, east, and southeast of Searchlight and encompasses approximately 18,949 acres of BLM-managed land in the Eldorado Mountains and Piute Valley. The switching station would be sited on BLM managed land just west of Western's existing Davis-Mead 230 kilovolts (kV) transmission line, approximately 7.5 miles east of the town of Searchlight, north of State Route 164/Cottonwood Cove Road and approximately 150 feet north of the NPS Fee Station. Facilities associated with the selected alternative will occupy approximately 152-160 acres.

Public review and comment on the SWE Project were extensive. Public scoping, including three public meetings and numerous agency meetings, initiated the public review process. Combined, the comment periods on the Draft Environmental Impact Statement (DEIS) and the FEIS occurred over three months. The BLM held 6 public meetings and received more than 80

comments on the documents. The BLM carefully reviewed the comments it received and has responded to these comments in the FEIS and in ROD Appendix C.

Consultation with Other Agencies: In addition to NPS and Western, which formally served as cooperating agencies, the BLM also coordinated and consulted with the U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (USEPA), Department of Defense (DoD), Federal Aviation Administration (FAA), Nevada Department of Wildlife (NDOW), Nevada Department of Transportation (NDOT), Nevada State Division of Water, Nevada Division of Minerals, Nevada State Historic Society, Nevada State Clearinghouse, Clark County Department of Air Quality, Clark County Desert Conservation Program, Advisory Council on Historic Preservation (ACHP), Nevada State Historic Preservation Office (SHPO), and potentially affected Native American tribes.

Decision Rationale: As described further in this ROD, the decisions are to approve the 87-WTG Alternative, including associated infrastructure and a switching station, and issue ROW grants across public lands for (1) the construction, operation, maintenance, and decommissioning of a wind facility to SWE and (2) the construction, operation, and maintenance of a switching station to Western. These decisions reflect careful consideration and resolution of the issues by BLM and the DOI, and were thoroughly analyzed in the SWE Project environmental review process.

This decision best fulfills the Agency's statutory mission and responsibilities, considering economic, environmental, and technical factors. Granting the ROWs to SWE and Western contributes to the public interest in providing a reliable electricity supply that allows for the development of renewable power that meets Federal and State renewable energy goals. The attached ROW grants and mitigation measures ensure that authorization of the SWE Project will protect environmental resources and comply with environmental standards. These decisions reflect the careful balancing of the many competing public interests in managing the public lands for public benefit. These decisions are based on a comprehensive environmental analysis and full public involvement. The BLM has engaged highly qualified technical experts to analyze the environmental effects of the SWE Project. Members of the public have contributed to the analysis and consideration of the many environmental issues arising out of the environmental review process. The BLM and DOI and other consulted agencies have used their expertise and existing technology to address the important issues of environmental resource protection. The BLM and DOI have determined that the measures contained in the FEIS, the programmatic agreement regarding the management of cultural resources, and the biological opinion significantly minimize and/or mitigate environmental damage and protect resources.

I. Introduction

This ROD explains the decisions of the DOI and BLM to determine whether to approve, approve with modifications, or deny the proposed ROWs for the SWE project. These decisions are based on consideration of the information generated during the analytical and public participation processes required by the National Environmental Policy Act (NEPA), Federal Land Policy and Management Act (FLPMA), National Historic Preservation Act (NHPA), Endangered Species Act (ESA), Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, and DOI tribal consultation policies. The BLM carefully considered its analysis regarding the range of reasonable alternatives to the proposed wind energy development project in Clark County, Nevada, including: potential impacts on environmental and cultural resources; practicable means to avoid, minimize, or mitigate those impacts; and national policy goals to promote renewable energy projects. This information was presented and analyzed in the SWE FEIS. The BLM will not issue notices to proceed for the project to SWE and Western until the BLM determines that compliance with ROW lease/grant stipulations has been satisfied. The ROW lease/grant for SWE is included in **Appendix A** and the ROW lease/grant for Western is included in **Appendix B**.

The FEIS was released for a 30-day availability period commencing on December 14, 2012. Comments on the FEIS and BLM responses are included in **Appendix C**. This ROD details the DOI and BLM's final decision, including any required mitigation for the project.

II. Changes and Clarifications to the FEIS

The BLM has made clarifications and minor editorial changes to the FEIS that have been incorporated in this ROD. An errata for the FEIS is included as **Appendix D**. The errata includes minor edits to clarify language and to include public comments erroneously omitted.

III. Background

SWE, a wholly-owned subsidiary of Duke Energy, has applied to the BLM for a ROW grant (N-084626) on public land to develop a wind energy generation facility. In concert with the application by SWE, Western applied to the BLM for a ROW grant (N-86777) on public land to develop a switching station that would interconnect the power generated from the wind facility to Western's electrical grid system. Both proposed actions would be located on public lands administered by the BLM in southern Clark County, Nevada near the town of Searchlight; approximately 1.5 miles west of the western border of NPS Lake Mead NRA; 60 miles southeast of Las Vegas; and 40 miles north of Laughlin. Specifically, the project area is to the northeast, east, and southeast of Searchlight and encompasses approximately 18,949 acres of BLM-managed land in the Eldorado Mountains and Piute Valley. Facilities associated with the action alternatives would occupy approximately 152–160 acres depending upon the alternative. The ROW leases/grants only include land needed for project development.

The BLM has prepared an EIS in compliance with NEPA in response to the ROW applications.

Title V of FLPMA, 43 U.S.C. 1761–1771, authorizes the BLM, acting on behalf of the Secretary of the Interior, to issue a grant on, over, under, or through the public lands for generation, transmission, and distribution of electric energy. The BLM's implementation of its statutory direction for ROW authorizations is detailed in 43 CFR 2800.

The Authorized Officer administers the ROW authorization and ensures compliance with the terms and conditions of the ROW lease/grant. The term "Authorized Officer" means any employee of the DOI with delegated authority to perform the duties described in 43 CFR 2800. For these specific ROW authorizations, this authority has been delegated to the Field Manager, Las Vegas Field Office, Bureau of Land Management.

IV. Decisions to be Made

The NEPA analysis contained in the EIS considered the following decisions to be made:

- Approve the Proposed Actions or alternatives and grant the ROWs to SWE and Western;
- Approve the Proposed Actions or alternatives and grant the ROWs to SWE and Western with mitigation measures; or
- Deny the ROW applications.

V. Mitigation and Monitoring

A. Required Mitigation

The mitigation measures required for implementation of the approved actions are outlined in **Appendix E** attached to this ROD and will be incorporated into the SWE and Western ROW authorizations as stipulations, where applicable. These mitigation measures will be strictly adhered to throughout the duration of all project activities. Application of these measures will reduce the impacts to BLM-administered lands and resources as described in the FEIS.

All mitigation measures to avoid or minimize environmental impacts that were presented in the FEIS have been considered and adopted in this ROD. In some cases the mitigation measures presented in the FEIS have been revised to address comments received during the 30-day FEIS availability period. In addition, the following mitigation measures have been added and incorporated in the ROD in response to comments received during the 30-day FEIS availability period:

1. A survey of the land proposed for the Western switching station will be completed and accepted by the BLM and NPS.

2. The BLM will work with Federal stakeholders to develop a Memorandum of Understanding (MOU) to address mitigation for the switching station.
3. The DoD and the applicant have agreed to pursue negotiations of a mutually acceptable Wind Turbine Curtailment Agreement relating to the operation of the wind project. In the event other more effective mitigation options are developed in the future, then, where applicable, the DoD will no longer require SWE to adhere to the terms of any mutually negotiated agreement to curtail wind turbine operations.
4. SWE and Western will comply with the reasonable and prudent measures with terms and conditions as identified in the USFWS Biological Opinion 8432002012-F-2011, issued on September 26, 2012.
5. SWE will comply with the terms and conditions as identified in the State Historic Preservation Office (SHPO) Programmatic Agreement (PA), signed on February 8, 2013.
6. If technologies become available that are approved by the Federal Aviation Administration (FAA), the BLM Authorized Officer may require an evaluation of the installation of an audio visual warning system (AVWS) for aircraft detection and warning to reduce night lighting impacts from wind turbines located within the authorization. If an AVWS is authorized by the FAA and determined by the BLM-authorized officer to be cost effective, the BLM-authorized officer may require the installation of an AVWS as a condition of the authorization.
7. SWE will apply to the USFWS for a Special Purpose Utility Wind (SPUT) permit to collect all migratory bird carcasses on-site. SWE will apply to the NDOW for a Scientific Collection Permit to collect all migratory bird carcasses.

B. Monitoring and Enforcement

The ROW authorizations provide the legal authority to enforce compliance with all terms and conditions of the ROWs, including mitigation measures and the terms and conditions of the Biological Opinion issued by the USFWS. Monitoring will occur throughout the duration of the project for each component of the construction, operation, maintenance, and termination of the wind generation project and the electrical transmission facilities.

VI. Alternatives Including the Proposed Action

The discussion below summarizes the alternatives that the BLM considered for SWE's and Western's ROW applications:

- **No Action Alternative.** The No Action Alternative assumes that the SWE ROW application for a wind-powered electrical generation facility and the ROW application for Western's proposed switching station, would not be granted, and the proposed project would not be constructed.

- **SWE Proposed Action - 96 Wind Turbine Generator (WTG) Layout.** Under this alternative, the BLM would authorize SWE to construct, operate and maintain, and decommission an approximately 220 megawatt (MW) wind energy facility in an area encompassing approximately 18,949 acres of BLM-managed land in Nevada. The project site is accessible from US Interstate 95 (US-95) and Nevada SR 164 (also designated as Cottonwood Cove Road). The SWE facility would begin generating power as soon as the WTGs and associated infrastructure (including Western's proposed switching station) were constructed. It is anticipated that the wind energy facility would operate year-round for up to 30 years.

This alternative would involve the construction of up to 96 2.3-MW WTGs that would provide up to 220 MW of electricity. The linear strings of WTGs would be sited on ridgelines and plateau areas bounded by Golden Rod Snyder Road on the south, US-95 on the west, Fourth of July Mountains in the east, and extending a few miles north of SR 164/Cottonwood Cove Road. The towers within each string would be sited approximately 750 feet apart. The locations of the proposed WTGs, roads, power lines, and other facility-related construction elements could slightly vary based on environmental, engineering, meteorological, and/or permit requirements. Facilities associated with this alternative would occupy approximately 163 acres.

Electrical power generation from the 96 WTGs and associated infrastructure would be collected, converted, and delivered to Western's proposed switching station as outlined under the Western Interconnection Switching Station section below.

- **BLM Preferred Wind Energy Development Alternative: 87 WTG Layout.** Under this alternative, the BLM would authorize SWE to construct, operate and maintain, and decommission an approximately 200 MW wind energy facility on BLM-administered lands within the same location as described above. This alternative would begin generating power as soon as the wind energy facility and associated infrastructures, including Western's proposed switching station, were constructed. It is anticipated that the wind energy facility would operate year-round for up to 30 years.

The 87 WTG Layout Alternative would involve the construction of up to 87 2.3-MW WTGs that would provide up to 200 MW of electricity. The linear strings of WTGs would be sited on ridgelines and plateau areas bounded by Golden Rod Snyder Road on the south, US-95 on the west, Fourth of July Mountains in the east, and extending a few miles north of SR 164/Cottonwood Cove Road. The towers within each string would be sited approximately 750 feet apart. The locations of the proposed WTGs, roads, power lines, and other facility-related construction elements could vary slightly based on environmental, engineering, meteorological, and/or permit requirements. Facilities associated with this alternative would occupy approximately 152-160 acres.

Electrical power generation from the 87 WTGs and associated infrastructure would be collected, converted, and delivered to Western's proposed switching station as outlined under the Western Interconnection Switching Station section below.

The BLM selected the 87 WTG Layout Alternative as the BLM-preferred alternative based on the analysis in the EIS. This alternative best fulfills the Agency's statutory mission and responsibilities, considering economic, environmental, and technical factors. Granting the ROW lease/grants to SWE and Western contributes to the public interest in providing a reliable electricity supply that allows for the development of renewable power that meets Federal and State renewable energy goals. The BLM-preferred alternative has the least environmental effects regarding noise, biological resources, and visual resources as compared to the 96 turbine alternative. In addition, it is the action alternative with the least amount of land disturbance. This BLM-preferred alternative also meets the purpose and need of the NEPA analysis.

- **SWE Alternatives Considered but not Analyzed in Detail.** Two potential alternatives, a 161 WTG and a 140 WTG Alternative were considered by the BLM but were eliminated from detailed evaluation for technical reasons and in response to public concerns about air traffic safety and visual resource impacts to the town of Searchlight and surrounding landscapes.
- **Western's Proposed Action and BLM Preferred Alternative.** Western proposes to construct, own, and operate a new switching station to interconnect the wind facility with Western's transmission system. It is anticipated that the switching station would become a part of the Western transmission system. The proposed switching station would be located just west of Western's existing Davis-Mead 230 kV transmission line, approximately 7.5 miles east of the town of Searchlight, north of SR 164/Cottonwood Cove Road approximately 150 feet north of the NPS Fee Station. Access to the proposed switching station would be along the existing Davis-Mead transmission line road, entering off SR 164/Cottonwood Cove Road. The transmission line road would require improvement for approximately 0.5 miles to be suitable for traffic to the site by construction vehicles, equipment delivery, and Western construction and maintenance personnel.
- **Western's Alternatives Considered but not Analyzed in Detail**
 - a. **Site 1.** A location at the northeast corner of Section 27 near the existing Davis-Mead 230 kV transmission line was considered due to its close proximity to the existing Davis-Mead transmission line and a clear microwave path to one of Western's existing communication facilities. However, the access road from SR 164/Cottonwood Cove Road to this location crosses two major drainages and

would require bridges, channelizing structures and large box culverts to maintain access to the site during storms events. The ground surface in the northeast corner of Section 27 is thin soil or exposed bedrock. Blasting would be required to level the switchyard, build the access road, and for most (possibly all) foundations which would easily double the cost of construction. A new power line would be necessary to connect the site with the existing NV Energy power line that is located along the north side of SR 164/Cottonwood Cove Road. The additional costs from wash crossing infrastructure and blasting make this site unreasonable from an engineering and cost perspective.

- b. Site 2.** A location along SR 164/Cottonwood Cove Road, between the proposed WTG collection substation and the existing Davis-Mead transmission line, and near the proposed Searchlight generation tie (gen-tie) line in Sections 27, 28, and 29 was considered. Being close to both the gen-tie line and the NV Energy distribution line is advantageous. However, development along the gen-tie line would require construction of a new access road from SR 164/Cottonwood Cove Road over to the site, including box culverts, channelizing structures and/or a bridge for one major desert wash crossing. Depending on how far west along the gen-tie line the site was located, the existing Davis-Mead line would have to be re-routed up to 2 miles to the west requiring new double-circuit transmission line with an estimated cost of about \$1.25 million/mile. There would also be no clear microwave path to existing Western communication sites along the gen-tie route, requiring development of a new mountain top communication site nearby, estimated to cost about \$700,000. This site was eliminated due to the unreasonable costs of the Davis-Mead line relocation and new communication site requirements. Further, it was anticipated that recreational users would use the new road to bypass the NPS fee station resulting in unauthorized access to the park and additional disturbance relatively close to Lake Mead NRA.
- c. Site 3.** A location south of SR 164/Cottonwood Cove Road in the southeast corner of Section 34 was considered because it has a clear microwave path to Western's existing communication facilities. However, this site is also located approximately 2 miles away from the Davis-Mead transmission line and thus would require 2 miles of double-circuit transmission line to connect with the Davis-Mead transmission line with an estimated cost of about \$1.25 million/mile. Other site development constraints would require a new access road from SR 164/Cottonwood Cove Road along the east boundary of the proposed site, including box culverts, channelizing structures and/or bridges for crossing several minor washes and one major wash. Finally, the location would require 3.5 miles of new Searchlight gen-tie line and 1.5 miles of new distribution line for station service power. This site was eliminated due to unreasonable costs for an all-

weather access road, a new distribution line for station service, and the double-circuit transmission line to connect with the Davis-Mead transmission line. In addition to the technical and economic reasons for elimination, it was anticipated that recreational users would use the new road to bypass the NPS fee station resulting in unauthorized access to the park and additional disturbance relatively close to Lake Mead NRA.

VII. Management Considerations

The decision to approve the SWE and Western ROW leases/grants takes into account statutory, regulatory, and national policy considerations, as well as both applicants' technical and financial capabilities to construct the projects for which the ROWs were requested. The decision was also based on input provided by and received from the public, industry, tribes, as well as other Federal and state agencies. Through this review process, all practical methods to reduce environmental harm have been incorporated into the decision and no undue or unnecessary degradation will result from the projects. The decision is consistent with BLM's multiple use mandate under FLPMA.

Secretarial Order 3283, "Enhancing Renewable Energy Development on the Public Lands," was signed January 16, 2009. The Secretarial Order established renewable energy as a Departmental policy and committed the DOI to achieve the goals established in Sec. 211 of the Energy Policy Act of 2005. The Energy Policy Act of 2005 encourages the development of renewable energy resources, including wind energy. Section 211 of the Act established a goal for the Secretary of the Interior to approve at least 10,000 MW of non-hydropower renewable energy projects on public lands by 2015. Secretarial Order 3285 "Renewable Energy Development by the Department of Interior," signed March 11, 2009, as amended on February 22, 2010, by Secretarial Order 3289 "Addressing the Impacts of Climate Change on America's Water, Land, and Other Natural and Cultural Resources," establishes the development of renewable energy as a priority for the DOI and creates a Departmental Task Force on Energy and Climate Change. The Congress, and the President, through the DOI, has established a national policy priority for renewable energy development. This project is directly related to the policy and goals established by the DOI because, in part, it is directly related to the policy goals established by the Energy Policy Act of 2005 and the Secretarial Orders identified above.

The BLM's decisions in this ROD respond to both SWE and Western's applications under Title V of FLPMA for a ROW grant to construct, operate, and decommission a wind energy generation facility and interconnection switching station and associated infrastructure in compliance with FLPMA, BLM ROW regulations (43 CFR 2800) and other applicable Federal laws. Instruction Memorandum 2009-043, "Wind Energy Development Policy," dated December 19, 2008, establishes BLM policy to ensure timely and efficient processing of energy ROWs for wind energy on the public lands.

The State of Nevada has also enacted legislation requiring area utility companies to provide energy for renewable energy sources as part of the State's renewable portfolio standard to achieve a goal of 25 percent of its energy production from renewable sources by the year 2025.

VIII. Relationship to BLM and other Agency Plans, Programs, and Policies

The USFWS issued a biological opinion (BO) for the projects on September 26, 2012. The BO, which concluded that the projects are not likely to jeopardize the continued existence or adversely affect the recovery of the Mojave desert tortoise, or result in the destruction or adverse modification of its critical habitat, is attached to this ROD as **Appendix F**.

A Bird and Bat Conservation Strategy (BBCS) was completed in November of 2012 with SWE, Western, USFWS and NDOW. The BBCS includes a risk assessment based on the USFWS Land-Based Wind Energy Guidelines, which determined that bird use in the project area is relatively low. The BBCS includes monitoring requirements and provisions for adaptive management measures based on mortality rates. The BBCS, which was reviewed by the USFWS, was included in the FEIS and is included as a stipulation of the ROW grant/leases. No topographic or habitat features that are considered bat attractants (e.g. large summer day roost, open water surfaces, riparian corridor) exist within or immediately adjacent to the project area. Two active eagle nests are within a 10-mile buffer of the project footprint and a few eagles use the rotor swept area. The BBCS took into account models that currently predict a possible eagle take within 7 to 10 years. The USFWS has suggested that SWE develop an Eagle Conservation Plan and apply for a programmatic eagle take permit. This would be a voluntary action on the part of SWE as no one is required to seek an eagle take permit for any activity; however, where an activity results in take, it is a violation of the Eagle Act unless a permit authorizing that take has been obtained prior to the action. The BBCS is attached to this ROD in **Appendix H**.

The SWE and Western projects are in conformance with the 1998 Las Vegas Resource Management Plan (RMP); however, when the RMP was completed in 1998, the BLM did not anticipate the number of large scale renewable energy developments that the Las Vegas Resource Area is currently considering and/or authorizing. To ensure that future land allocations and decisions are appropriate, the BLM is currently revising the 1998 RMP and expects to complete that revision process in 2013. Through this RMP revision process, the BLM is addressing large-scale ROWs for development of renewable energy resources, such as wind and solar energy, as well as visual resource management constraints and other appropriate management constraints, including but not limited to the identification of potential avoidance or exclusion areas for future ROWs within special designations, such as areas of critical environmental concern and critical desert tortoise habitat. Although the BLM is revising the 1998 RMP, the existing RMP remains in effect. Any BLM authorizations that occur following the RMP revision will need to conform to the revised RMP.

In 2005, the BLM prepared a Wind Energy Development Programmatic EIS (PEIS) to address the National Energy Policy recommendations to increase renewable energy production capability specifically regarding the development of wind energy resources. The PEIS analyzed the potential impacts of wind energy development to public lands. This PEIS was published in June 2005, and in December 2005 the ROD was signed. The ROD implements a comprehensive Wind Energy Development Program for the development of wind energy resources on BLM-managed public lands in 11 western states including Nevada. The ROD amended 52 BLM land use plans including the Las Vegas RMP. The amendment to the Las Vegas RMP includes the adoption of the programmatic policies of the Wind Energy Development Program and Best Management Practices (BMP) to address the administration of wind energy development actions on BLM lands and identifies the minimum requirements for mitigation measures. Both of these elements allow project-specific analysis to focus on the site-specific issues and concerns of individual projects. The 2012 FEIS serves as the site-specific analysis of the SWE Project. Additionally on March 11, 2005, BLM released an updated Land Use Planning Handbook (H-1601-1) that supersedes the previous version. This handbook requires that land use planning efforts address existing and potential development areas for renewable energy projects, including wind energy (H-1601-1, Appendix C, II. Resource Uses, Section E. Lands and Realty).

The ACHP was notified of and invited to participate in the Searchlight Wind Energy Project on August 1, 2012 per the 2012 Programmatic Agreement among the Bureau of Land Management, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers Regarding the Manner in which BLM will Meet its Responsibilities Under the National Historic Preservation Act, executed on February 12, 2012. On August 13, 2012, the ACHP responded and declined participation in the consultation to resolve adverse effects leaving it to the BLM and the Nevada SHPO. Subsequently, a project-specific PA to establish alternate procedures for compliance with Section 106 of the NHPA was executed on February 8, 2013. The PA is attached to this ROD in Appendix G. Following is a discussion of the development of the PA.

A. Searchlight Memorandum of Agreement to Programmatic Agreement

When the BLM prepared to publish the FEIS, it considered its inventories and evaluations of cultural resources (including, but not limited to archaeological sites, buildings, structures, properties of traditional religious and cultural importance to tribes, etc.) to be complete. The BLM also expected to complete all remaining consultation and coordination with tribes, interested parties, and the SHPO to prepare a historic properties treatment plan that describes how the BLM would account for any adverse effects to places eligible for the National Register of Historic Places (NRHP) through avoidance, minimization, or mitigation. As described in the FEIS, the BLM expected that it would memorialize this process in a Memorandum of Agreement (MOA) before issuing a

Record of Decision. The BLM invited the ACHP to participate in consultation and the development of an MOA, but the ACHP determined that its participation was not needed.

In December 2012, the SHPO expressed an interest in enhancing the protection of cultural resources by expanding the Area of Potential Effects (APE) to more comprehensively account for potential indirect visual impacts to those resources. Though the BLM determined that its initial APE adequately identified the geographic area in which the project might affect historic properties, after further discussions between the BLM and SHPO in December and January 2013, the BLM agreed to expand the visual effects indirect impact area to more effectively identify historic properties in the vicinity of the project and to better take into account the resolution of potential adverse effects.

Because of this expansion to the APE, the BLM and SHPO agreed in January 2013 to complete a PA to fulfill requirements of the Section 106 process, subject to implementation of terms contained in the PA. The PA establishes processes to (1) identify and evaluate historic properties, (2) determine whether there may be adverse effects on those properties, and (3) consult further with one another and interested tribes, as necessary, to identify and implement ways to avoid, minimize, and mitigate adverse effects.

In accordance with the PA, the BLM has agreed to identify and resolve the direct, indirect, and cumulative adverse effects of the project on historic properties in the APE. For this project, the indirect (visual) APE is 8 miles on all sides of the project area. The BLM and SHPO (Signatories), SWE (Invited Signatory), and Western (Concurring Party) agree that the proposed project will be implemented in accordance with the PA, and the BLM shall ensure that the conditions of the PA are met before Notices to Proceed are issued for respective segments of the project. Further tribal consultation will be required if indirect adverse effects to historic properties are identified in the visual APE. The ACHP will be informed of any adverse effects.

B. Native American Consultation

Native American consultation is an ongoing process conducted by BLM management and staff in accordance with several authorities, including but not limited to NEPA, the NHPA, the American Indian Religious Freedom Act, Executive Order 13175, Executive Order 13007, and DOI tribal consultation policies. The BLM initiated formal consultation with tribes on December 17, 2009, when the BLM distributed letters to the Chemehuevi Indian Tribe, Colorado River Indian Tribes, Fort Mojave Indian Tribe, Las Vegas Paiute Tribe, Moapa Band of Paiutes, Pahrump Paiute Tribe, Hualapai Tribe, and the Fort Yuma-Quechan Tribe. The BLM conducted government-to-government consultation through tribal meetings and site visits, including project field trips with representatives of the Chemehuevi Tribe, Las Vegas Paiute Tribe, and Hualapai Tribes

(March 18, 2010); the Moapa Band of Paiutes, Chemehuevi Tribe, and Timbisha Shoshone Tribe (March 23, 2010); and the Fort Mojave Tribe (April 9, 2010). Tribal consultation focused on visual impacts from the project on Spirit Mountain, a National Register of Historic Places-listed Traditional Cultural Property in the vicinity of the Searchlight project. In response to these concerns, the BLM broadened its environmental analysis to include a simulation of visual impacts to a key observation point on Spirit Mountain. The results of this simulation showed that the southernmost wind turbines from the project would be faintly visible while motion of the blades would be discernible from this key observation point. There would be a weak to moderate contrast in color, form, and line.

The project was put on hold in 2011 while the project proponent conducted a power transmission interconnect study, but tribal consultation continued in 2012 and included another field trip with participation from the Chemehuevi, Hualapai, Moapa Paiute, and Fort Mojave Tribes (October 11, 2012). While the Chemehuevi Tribe determined that it had no remaining cultural concerns with the project, multiple other tribes continued to express concern about the potential visual impacts to Spirit Mountain, as well as the other potential impacts to archaeological sites, trails, or other aspects of the cultural landscape. The Hualapai Tribe requested that an ethno-historic study be undertaken to investigate the cultural landscape from tribal perspectives. An ethno-historic study will be completed and has been incorporated in Appendix E as mitigation measure CR-2. The Fort Mojave, Moapa, and the Pahrump Tribes stated that the known direct and cumulative effects of the project could not be mitigated further. The BLM will continue to coordinate and consult with tribes under the terms of the PA.

IX. Agency and Public Involvement

A. Scoping

The BLM published the Notice of Intent (NOI) in the *Federal Register* (73 FR 242: 76377) on December 16, 2008, denoting the beginning of the scoping period for the BLM's NEPA analysis. The scoping period ended on February 17, 2009, totaling 60 days, which exceeds the BLM minimum requirement of a 30-day scoping period.

The NOI announced a period for the public scoping of alternatives, issues, and impacts. The NOI also requested the views of other agencies as to the scope of and the content of the environmental information that was relevant to the statutory responsibilities or expertise for those agencies. Federal, state and local agencies, tribes, as well as individuals or organizations that were interested or may be affected by BLM's decision on these projects, were invited to participate in the scoping process and, if eligible, could request to participate as a cooperating agency. The BLM received oral and written comments during public scoping meetings. The project mailing list was maintained and updated throughout the

NEPA process to include those who provided scoping comments, attended meetings, or expressed to the BLM their interest in the project through the project website or direct request.

B. Draft Environmental Impact Statement (DEIS) Public Comment Period

The USEPA and the BLM published Notices of Availability of the DEIS concurrently in the Federal Register (77 FR 2979 and 77 FR 2999) on January 20, 2012, denoting the beginning of the comment period for the Draft EIS. Interested parties and the public were notified by a press release, direct mail, and/or email. The comment period ended on April 18, 2012, totaling 60 days, which exceeds NEPA's minimum requirement of a 45-day comment period. On February 21, 22, and 23, 2012, the BLM held public hearings in Laughlin, Searchlight, and Boulder City, respectively. The BLM received over 75 public comments on the DEIS. The BLM reviewed each comment and developed responses to all substantive comments based on guidance found in the Council on Environmental Quality (CEQ) regulations (40 CFR 1503.4). All substantive comments with response information can be found in the FEIS in Appendix A-4. As a result of this review, the analysis in the EIS was clarified and improved.

C. Final Environmental Impact Statement (FEIS) Availability Period

The USEPA published the Notice of Availability of the FEIS in the *Federal Register* (77 FR 74479) on December 14, 2012, and the BLM notice (77 FR 74865) was published on December 18, 2012. Interested parties and the public were notified by a press release, direct mail, and/or email. Hard copies and electronic copies of the FEIS were made available at the Southern Nevada District Office. An electronic copy of the FEIS is posted on the internet at http://www.blm.gov/nv/st/en/fo/lvfo/blm_programs/energy/searchlight_wind_energy.html.

As outlined in Section 9.6 of BLM's NEPA handbook (H-1701-1; BLM 2008c), although the 30-day availability period for the FEIS is not a formal comment period, public comments were considered. The BLM has reviewed all comments; a summary of the comments and brief responses are included in **Appendix C**.

X. Decision Rationale

The BLM, after careful consideration of the potential effects of the proposed project, has decided to authorize SWE's 87 WTG Layout including associated infrastructure, and the switching station proposed by Western.

Authorization of the facilities satisfies the purpose and need for the proposed action, to respond to SWE's and Western's applications and to determine whether to approve, approve with modifications, or deny issuance of a ROW lease/grant, taking into consideration the provisions of the Energy Policy Act of 2005 and other applicable Federal laws and policies.

The BLM selected the 87 WTG Layout Alternative based on the analysis in the FEIS. This alternative best fulfills the Agency's statutory mission and responsibilities, considering economic, environmental, and technical factors. Granting the ROW lease/grants to SWE and Western contributes to the public interest in providing a reliable electricity supply that allows for the development of renewable power that meets Federal and State renewable energy goals. The BLM-preferred alternative has the least environmental effects regarding noise, biological resources, and visual resources as compared to the 96 turbine alternative. In addition, it is the action alternative with the least amount of land disturbance. The BLM-preferred alternative also meets the purpose and need of the NEPA analysis.

The BLM considered all comments submitted during the 30-day availability period following the release of the FEIS. Additional mitigation measures have been incorporated in this ROD and will be incorporated into the SWE and Western ROW authorizations as stipulations, where appropriate.

XI. Final Agency Action

A. Right-of-Way Authorization

It is my decision to approve a right-of-way lease/grant to Searchlight Wind Energy, LLC and a right-of-way lease/grant to Western Area Power Administration subject to the terms, conditions, stipulations, Plan of Development, and environmental mitigation measures developed by the Department of the Interior and reflected in this Record of Decision. This decision is effective on the date this Record of Decision is signed.

Approved by:



Jamie Connell
Acting Deputy Director of Operations
Bureau of Land Management

3/11/2013

Date

B. Secretarial Approval

I hereby approve this decision. My approval constitutes the final decision of the Department of the Interior and, in accordance with the regulations at 43 CFR 4.420 (a)(3), is not subject to appeal under department regulations at 43 CFR Part 4. Any challenge to this decision, including the BLM Authorized Officer's issuance of the right-of-way as directed by this decision, must be brought in Federal district court.

Approved by:



Ken Salazar
Secretary
U.S. Department of the Interior

March 13, 2013

Date