



November 19, 2014

Tom Zale
Field Manager
Bureau of Land Management
El Centro Field Office
1661 S 4th Street
El Centro, CA 92243

Re: Tule Wind Energy Project ROW Grant Amendment Request

Dear Mr. Zale:

Tule Wind LLC (Tule), a wholly owned subsidiary of Iberdrola Renewables, LLC, has a right-of-way (ROW) grant, serial number CACA-049698, with the Bureau of Land Management (BLM) for the Tule Wind Project, located in San Diego County, California. The original ROW grant was issued on March 7, 2012, and subsequently amended and executed on June 25, 2014. The most recent ROW grant stipulates under Section 5(e) that Tule Wind shall, "obtain a Notice to Proceed (NTP) from the BLM no later than December 31, 2014. The holder shall start construction on the initial phase of development within 90 days of the BLM's issuance of a NTP." For the reasons stated below and as discussed by representatives of Iberdrola Renewables and the BLM's State Office in Sacramento on October 15, 2014, Tule hereby requests an amendment to the ROW grant that will extend the BLM NTP milestone to December 31, 2016, based on the following justifications.

Federal and State Policies

Granting the requested extension fulfills numerous federal and state policies.

Federal Policy Background. The National Energy Policy of 2001 and the Energy Policy Act of 2005 (Public Law 109-58, August 8, 2005) encourage the development of renewable energy resources, including wind energy. Section 211 of the Energy Policy Act established a goal that the BLM would approve 10,000 megawatts of non-hydropower renewable energy projects on the public lands by 2015. The development of wind energy will be an important contribution to that goal.

BLM Energy and Mineral Policy. In 2008, BLM adopted its Energy and Mineral Policy, signed by the Director on August 26, 2008, which recognizes that the public lands are an important source of the Nation's renewable energy resources, including wind energy.



BLM Instructional Memorandum (IM). In 2009, BLM adopted IM No. 2009-043 as the agency's Wind Development Policy implementing federal renewable energy goals. This policy clarifies the BLM Wind Energy Development policies and best management practices provided in the Wind Energy Development Programmatic Environmental Impact Statement of June 2005.

Secretarial Order 3283. On January 16, 2009, the Secretary of the Department of the Interior (DOI) signed this order for Enhancing Renewable Energy Development on the Public Lands. The Order facilitates the DOI's efforts to achieve the goal Congress established in Section 211 of the Energy Policy Act of 2005 to approve non-hydropower renewable energy projects on public lands with a generation capacity of at least 10,000 MW of electricity by 2015. Based on these federal policies, the BLM is obligated to consider the proposal expeditiously to accommodate the potential increase in power generation that, if approved, would begin on or before 2013.

Secretarial Order 3285. On March 11, 2009, the Secretary of the DOI signed this Order regarding Renewable Energy Development. Order 3285 establishes development of renewable energy as a priority for the DOI and establishes a Departmental Task Force on Energy and Climate Change.

California Renewable Portfolio Standard (RPS). The California legislature passed Senate Bill (SB) 1078 in 2002, establishing a RPS requiring utilities to obtain 20% of their electricity from renewable energy sources by 2020. The legislature later passed California SB 107 in 2006, which accelerated date by which to achieve the RPS goals from 2020 to 2010. The governor of California issued Executive Order S-21-09 in 2009, increasing the 2020 RPS goal to 33%. In 2011, the governor signed SB X1-2 which codifies the 33% by 2020 RPS goal.

The President of the U.S. recently commented on the importance and progress toward renewable energy in this Message from the White House:

Building on the progress of the first term, this Administration continues to take new action to drive clean, American-made energy. Through initiatives such as public-private partnerships and renewable energy projects on public lands, we are on track to meet our goals of installing 100 megawatts of renewable capacity across federally subsidized housing by 2020, permitting 10 gigawatts of renewable projects on public lands by 2020, deploying 3 gigawatts of renewable energy on military installations by 2025, and doubling wind and solar electricity generation in the United States by 2025.

<http://www.whitehouse.gov/energy/securing-american-energy>

ROW Grant CACA-049698



Section 5(e) of the ROW grant explicitly authorizes the BLM to grant extensions, “The holder will be provided an opportunity to ...submit a written request to the Authorized Officer for an extension of the timelines in the approved Plan of Development.” Further, the ROW fee structure accounts for a phase-in before full rent is owed, allowing the holder three years to satisfy pre-conditions, complete the numerous business and engineering activities required over multiple years to start physical construction, and make the decisions required to commence physical construction before full rent is due.

In this case, BLM should allow the ROW holder additional time to receive the administrative approvals from the County of San Diego for the portion of the project located in the County’s jurisdiction. Because Tule Wind is the first wind project within the County of San Diego’s jurisdiction, the permitting process has taken longer compared to other Californian counties, where wind development is more prevalent and there is more experience with the permitting process. Obtaining the authorization to proceed with construction on the County portion of the project is necessary to construct suitable access to the BLM ROW property. Because of the configuration of the project, Tule Wind must initiate construction on the portion of the project in the County in order to gain access for construction of the wind project on the ROW. Tule must satisfy numerous pre-construction conditions contained in the separate County Major Use Permit before it may commence physical construction on the entirety of the project. The BLM’s ROW should not expire because a County administrative process is not yet complete.

The BLM manages public land for multiple use and to achieve the highest and best use of the land. By issuing the Record of Decision and approving the wind project, BLM has determined that a wind energy project is one of the highest and best uses on the associated land, thereby fulfilling the Department of the Interior’s mandate to support renewable energy. Because the wind project occupies less than approximately 2% of the ROW, the project exemplifies multiple use of public land. Iberdrola has worked diligently for over 10 years to achieve the necessary permits and meet project milestones. It would be counterproductive to revoke Tule’s permit and assume another wind energy developer would be able to expedite a project in this area in a better fashion, and rather would likely cause significant further delays.

Tule Wind is also asking for additional time to complete the numerous business and engineering activities that must precede commencement of physical construction, and to address outstanding litigation.

Business and Legal Matters

Crucial among the factors justifying a deadline extension are business matters and decisions necessary to prudently continue development of the Tule Wind Project. A vital component of Tule is the construction and operation of the SDG&E East County Substation (ECO). The development of ECO has experienced numerous delays, which has impacted the overall Tule schedule. Therefore, Tule is currently in the process of amending its Large Generator Interconnection Agreement with the California Independent System Operator and San Diego Gas



& Electric to extend the milestones for interconnection (see Attachment A), which are consistent with the milestones Tule is proposing to the BLM.

Another business factor involves the time needed to finalize the sale of the project output. Tule continues to seek a Power Purchase Agreement (PPA). Execution of PPAs with public utilities and investor-owned utilities are contingent upon subsequent approval by their Boards and the California Public Utilities Commission respectively, which typically takes a year to conclude.

Other important business and legal concerns involve ROW title insurance and due diligence work required to finalize the design and commence physical construction; these are not complete. The title company is awaiting information and responses from the BLM that is not available from other sources. It is essential to establish legal land control and understand all encumbrances that affect the project lands (including non-BLM land) before starting physical construction.

Lastly, on March 13, 2013 a lawsuit was filed by The Protect our Communities Foundation, Backcountry Against Dumps, and Donna Tisdale against the United States Bureau of Land Management and the United States Department of the Interior for Declaratory and Injunctive Relief regarding the Tule Wind Project. Oral arguments were heard in court on March 3, 2014. The Court issued a decision on March 25, 2014. Subsequently, the Plaintiff's filed an appeal on July 30, 2014. The appeal process is expected to take at least 12 months. A decision would be issued sometime after that date, mid-2015. Although developers reserve the right to construct at-risk, the pending litigation introduces additional uncertainty for both Tule and the BLM.

Ongoing BLM requirements

Tule has been diligently working with the BLM El Centro Field Office staff to meet the conditions outlined in the ROW grant. In addition to the 110 stipulations included in the County Major Use Permit that must be completed prior to obtaining the County NTP, the BLM ROW grant also contains 110 conditions that Tule must complete prior to obtaining the BLM NTP. As part of those conditions, approximately 24 project-specific plans are required by the BLM. Tule has been collaboratively working with the El Centro Field Office to finalize those plans, as evident by BLM submittal tracking spreadsheet (see Attachment B).

In mid-2013 Tule was informed that an Integrated Pest Management Environmental Assessment (EA) would be required to manage noxious weeds during construction and operation of the project, in addition to the Final Environmental Impact Statement, dated October 2011, that was prepared for the project. Tule subsequently submitted a draft Integrated Pest Management EA in December 2013. Tule received BLM's comments on the EA in September 2014. Tule reviewed these comments with BLM and has revised the EA accordingly; which was resubmitted to BLM on November 14, 2014. Tule has been informed by Greg Miller, BLM Renewable Energy Coordination Office Project Manager, that a Decision Record for the Integrated Pest Management EA should be final prior to issuance of the BLM NTP.



For the reasons stated herein, Tule hereby respectfully requests an amendment to the ROW Grant, specifically Section 5(e), allowing for an additional two years for Tule to obtain the BLM NTP. If such additional time is granted, the BLM NTP would then be required prior to December 31, 2016.

Please feel free to contact me at (760) 445-3081 with any questions.

Best regards,

A handwritten signature in black ink, appearing to read "K. Harley McDonald".

K. Harley McDonald
Senior Business Developer

Enclosures: Attachment A, Attachment B

Cc: Peter Godfrey, BLM Project Manager
Jim Kenna, BLM State Director
Jesse Gronner, Iberdrola Renewables, LLC