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December 10, 2004

BLM Wind Energy Programmatic EIS Scoping  
 Argonne National Laboratory EAD/900  
 9700 S. Cass Avenue  
 Argonne, IL 60439

Dear Wind EIS Team:

Thank you for your tremendous efforts in preparing this programmatic EIS on wind power development for BLM lands. In the EIS you mentioned that you were taking comments on places that should not be developed for wind power generation. Most of my comments are directed at that concept.

I use BLM lands in Montana to view wildlife, hunt, take photographs, hike, and camp. Public lands are very important to me and to many others who can't afford to own our own private ranches. It is extremely important to me that these lands be managed properly to maintain proper ecological functioning as wildlife habitat, in a natural or semi-natural state. At the same time, I consider the development of wind power to be an important aspect of reducing our dependence on fossil fuels. My primary concerns with wind power development are 1) impacts on wildlife and 2) aesthetic impacts (in terms of a natural-looking landscape for photography). Since BLM lands vary widely in their values to wildlife, the selection of locations that minimize impacts to wildlife is a critical aspect of wind development on public lands. Many BLM lands are small, isolated parcels surrounded by private land. These types of parcels, when surrounded by croplands, oil fields, or other developments are the preferred locations for wind development. BLM lands adjacent to existing transmission lines should be looked at first, since the construction of new power lines to transmit the power will have major environmental impacts. Large blocks of BLM land containing natural grassland and sagebrush/grassland habitats should be excluded from development. Parcels without roads (jeep trails don't count as roads), and wetland and riparian habitats should be avoided. Also, wind farms with forests/trees nearby tend to kill a lot of bats so these areas should also be avoided. There are plenty of areas that are already roaded, have power line corridors nearby, and have few wildlife values, and those tracts should be the ones with high priority for wind development. Also, if power lines must be constructed, they should not bisect large contiguous blocks of habitat. It would be best if all power lines could be buried, for wildlife, for scenic values, and also for national security. Buried power lines should follow existing road/utility corridors as much as possible.

80086-1

The EIS has identified areas that have high potential for wind development based on wind potential. It should go one step further and prioritize parcels for development based

80086-2

on criteria such as proximity to transmission lines and roads, size of the parcel, wildlife values, scenic values, and landscape context. Without doing this, the developers will come in the door with proposals to develop environmentally sensitive parcels, then blame “environmentalists” for being “obstructionists” when they raise objections. It would save everyone a lot of time, money, and energy if BLM lands could be ranked up front, and the rankings put out for public discussion. It all boils down to location—all the analysis and mitigation in the world won’t make up for the wildlife losses if sensitive areas are developed.

80086-2  
(cont.)

In particular, I have strong concerns about wind development on the Rocky Mountain Front in Montana and some other key places that are important to me. I would like to see the following areas in Montana declared off-limits to wind power development because of high wildlife, scenic, roadless/wilderness, and other outstanding natural values:

- **All BLM tracts along the Rocky Mountain Front:** Wildlife values include high nesting raptor populations, raptor migration corridors, shorebirds, waterfowl, and other bird species, high bat species diversity, high numbers of wintering elk, deer, and bighorn sheep and high use by grizzly bears. Habitat values include large areas of cliffs with caves, unique and important wetlands, large tracts of native grasslands and low road densities.
- **The Kevin Rim and adjacent BLM lands:** Wildlife values include very high population densities of nesting raptors. Habitat values include large areas of cliffs, native grasslands, and wetlands.
- **BLM tracts in the triangle formed by Choteau, Fairfield, and Augusta:** Wildlife values include mountain plovers, ferruginous hawks, long-billed curlews, and other grassland bird species. Habitat values include Freezout Lake Wildlife Management Area and other wetlands heavily used by migratory birds and antelope, extensive riparian habitat, cliff habitat along the Sun River and extensive areas of native grasslands.
- **BLM lands in the “Devil’s Kitchen” area south of Cascade:** Wildlife values include bighorn sheep and elk. Habitat values include large areas of rocky cliffs potentially used by roosting bats and nesting/migrating raptors.
- **BLM lands along the Marias River Corridor:** Wildlife values include high raptor populations and waterfowl. Habitat values include low road density and extensive cliff and riparian habitat for bats and birds.
- **BLM lands in the Sweetgrass Hills:** Wildlife values include nesting and migrating birds of prey. Habitat values include extensive cliffs, forested areas, and rocky areas used by bats, extensive grasslands and wetlands and low road densities.

80086-3

- **BLM lands in Carbon County:** Wildlife values include high species diversity of bats, white-tailed prairie dogs, mountain plover, plains spadefoot toad and other "species of concern" in Montana.
- **Extensive BLM tracts south of Ekalaka:** Values include ferruginous hawks and other grassland nesting bird species.
- **Large blocks of grassland areas in Phillips and Valley counties:** some of this area has been eliminated from consideration already, but most of the large blocks should be taken out of consideration. Large blocks of grassland habitat are few and far between in Montana, and they are the key to the long-term preservation of species like the black-footed ferret and mountain plover.

80086-3  
(cont.)

Thank you very much for the opportunity to comment.

Sincerely,



Kristi DuBois

**Responses for Document 80086**

- 80086-001:** The issues identified in your comment are addressed by proposed policies and BMPs. The specific measures that will be needed at individual sites to mitigate impacts will be identified during the site-specific analyses. These analyses will be conducted in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Exclusions of any additional areas from wind energy development will be determined at the project level as part of the site-specific analyses or through local land use planning efforts, with opportunities for full public involvement.
- 80086-002:** The evaluation of appropriate wind energy development sites involves interactions between industry and the BLM regarding possible sites prior to submittal of a ROW application for development. These interactions often serve to screen out sites that are unsuitable for development for a variety of reasons. Ranking of BLM-administered lands regarding their suitability for development is not being considered and is beyond the scope of the PEIS
- 80086-003:** As stated in the first bullet in Section 2.2.3.1, Proposed Policies, the BLM will exclude wind energy development from a number of specific areas. Exclusions of any additional areas from wind energy development will be determined at the project level as part of the site-specific analyses or through local land use planning efforts, with opportunities for full public involvement. As required by the Wind Energy Development Program proposed policies and BMPs, site-specific analyses, including the development of an appropriate monitoring program, will be conducted for any proposed project on BLM-administered lands. The scope and approach for site-specific analyses will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies and interested stakeholders. Through this process, the BLM will develop project-specific stipulations for incorporation into the POD. Site-specific analyses are beyond the scope of the PEIS.

**Document 80088****WindEISArchives**

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**From:** windeiswebmaster@anl.gov  
**Sent:** Friday, December 10, 2004 5:46 PM  
**To:** WindEISArchives  
**Subject:** Wind Energy EIS Comment 80088



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t\_Letterfinal\_s...

Thank you for your comment, Thomas France.

The comment tracking number that has been assigned to your comment is 80088. Once the comment response document has been published, please refer to the comment tracking number to locate the response.

Comment Date: December 10, 2004 05:45:38PM CDT

Wind Energy EIS Draft Comment: 80088

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Questions about submitting comments over the Web? Contact us at:  
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December 10, 2004

BLM Wind Energy Programmatic EIS  
Argonne National Laboratory EAD/900  
9700 S. Cass Avenue  
Argonne, IL 60439

**RE: Comments on Draft Programmatic Environmental Impact Statement for Wind Energy in 11 Western States, dated September 10, 2004.**

Dear Comment Analysis Group:

Thank you for the opportunity to comment on this Draft Programmatic Environmental Impact Statement (DPEIS). The National Wildlife Federation (NWF) believes it is in the public interest that the nation's energy sources transition from nonrenewable sources to those that provide for cleaner air and water, reduced global warming pollution, energy independence, and improved public health. NWF feels electricity generated from appropriately sited wind turbines should contribute to this transition from nonrenewable energy sources. However, NWF recognizes several adverse impacts that wind facilities have on wildlife.

80088-1

We offer the following suggestions and comments on the DPEIS:

The large footprints of wind generating facilities will have locally significant impacts on many wildlife species. Given the plethora of potential wind power sites on both private and public land, the BLM should not site any wind power developments on sensitive wildlife habitats. Wind developers should be required to seek wind development sites on private lands before the BLM considers permitting development on undeveloped public lands. The West contains vast tracts of dryland farmland that could be acquired without significant cost to potential developers. Given the abundance of this private farmland resource, NWF believes that wind development on undeveloped public lands should only be considered once developers have exhausted their opportunities for constructing a wind facility on private lands. This is especially true where public lands administered by the BLM possess significant wildlife values that would be irreparably harmed by the footprint and infrastructure network associated with a wind facility. The requirement to exhaust private land options should be a stated Policy of BLM wind energy administration. The DPEIS focuses on mitigation and BMPs when the opportunity for achieving real conservation goals is greatest before a site is permitted.

80088-2

NWF's biggest concern with wind development on BLM administered public lands is the potentially adverse impacts on wildlife and their habitat. Of particular concern is the conservation of sensitive species including, but not limited to, the greater sage-grouse and its habitats. Loss, degradation, and fragmentation of sage steppe habitat are the primary causes of region extirpations and isolation of sage-grouse populations. A panel recently convened by the U.S. Fish and Wildlife Service to evaluate the extinction potential for greater sage-grouse found energy development to be the principle concern for

80088-3

sage-grouse conservation in the eastern portion of its range. The fragmentation of public lands by mining, oil and gas development, and now wind energy development, along with the associated road building, operational disturbance, and inherent avoidance of above-ground structures exhibited by sage-grouse (as well as other prairie bird species), continue to threaten the long-term existence of this bird. Furthermore, the encroachment of cheat grass and other invasive weeds that often follow development of roads and soil disturbance associated with construction and operation of energy facilities negatively affect the habitat and survival of the species. Consequently sage-grouse numbers have declined to extirpation in many regions, and up to an estimated 90 percent from historic levels in many additional areas. Due to this decline in sage-grouse numbers and degradation of sage steppe habitat, the USFWS, USFS, and BLM have adopted a “no net loss” policy for sage-grouse habitat; BLM should state how they plan to adhere to this policy in developments like those analyzed in this DPEIS.

80088-3  
 (cont.)

Since wind energy projects have been proposed on thousands of acres of sage-grouse strongholds on public lands, NWF believes that if wind developments are permitted on BLM lands they must adhere to the following requirements:

- NWF believes the Policies and Best Management Practices (BMPs) outlined in the Draft Programmatic EIS should be binding on the BLM as well as potential wind facility developers. As the DPEIS currently stands, none of the BMPs are mandatory. Though the DPEIS states that the Policies and BMPs are to represent the “minimum requirements for management of individual wind energy projects,” (DPEIS 2.2.3), the language describing the BMPs is consistently permissive. NWF believes that in order for the full benefit of the BMPs and mitigation measures to be realized, they should be required. Accordingly, the language describing the BMPs should parallel the language describing the Policies. The use of mandatory terms like *shall*, *will*, and *must* should replace the use of the following permissive terms used in the BMPs: *should*, *to the extent feasible*, *to the extent possible*, etc.;
- In particular, the permissive language found throughout the mitigation measures regarding gallinaceous birds (DPEIS 5-72) should be changed to the above mandatory terms;
- The BLM itself should be responsible for implementing strategies and BMP’s to achieve goals and objectives specific to habitat conservation of sage-grouse, rather than implying that wind power entities may solely carry responsibility for implementation and compliance;
- The transmission lines needed to serve wind power projects on BLM land should be considered a connected action requiring the same analysis as all wind projects covered under this DPEIS. In addition, should any traditional coal/oil/gas powered plants be constructed as part of the wind generation facility, they must also be included within this analysis;
- That wind projects will be restricted from wildlife habitats where adverse effects cannot be mitigated, and mitigation itself should be added to the issues and concerns to be identified and addressed in consultations with other agencies;

80088-4

80088-5

80088-6

80088-7

Comment Analysis Group  
 December 10, 2004  
 Page 3 of 4

- Invasive plants and wildfire have been identified as a major concern for conservation of sage-grouse habitat in their western range. We recommend there be BMP sections on invasive plants and fire management relative to wind power development.

80088-8

In addition to concerns about sage-grouse, there are a number of potential impacts to other species of birds, particularly migratory birds, and even bats. Surveys should be conducted before wind turbines are approved or constructed that would entail both on-site observations of birds on a seasonal basis (e.g., bird passage during spring and fall migration), as well as more detailed evaluation of the use of the site by birds, particularly of threatened and endangered species, sensitive species, and species of concern. Surveys for nocturnal migrants where migratory corridors exist, especially for wind projects along mountain ridgelines, should be conducted. If there are science-based concerns over avian mortality requiring more detailed surveys, two years of pre-construction surveys of migratory birds should be considered. The intensity and duration of preliminary studies can be reduced for projects in areas where risk to birds and bats is clearly low, such as small projects or projects in areas where existing data suggest little bird or bat use.

There are basic steps that should be followed when reviewing sites for bird abundance and migration patterns. Biologists should complete a site assessment by conducting a literature review, evaluating existing published and unpublished data, speaking with people knowledgeable about the area, and conducting reconnaissance surveys to document major vegetation types and likelihood of bird, bat and other wildlife impacts. These reconnaissance surveys should be used to identify potential issues related to site development and to eliminate sites that have a likelihood of causing significant negative wildlife impacts following development. After potentially suitable sites are located, a second level of more intensive surveys should be initiated, if warranted, which quantify bird and bat use of the proposed sites. These follow-up surveys may be necessary because reconnaissance surveys may not provide the level of understanding and detail needed for siting a wind farm, or for siting individual turbines.

80088-9

Habitats known to be used by birds, bats, or species listed under the Endangered Species Act should be avoided if the construction and operation of wind plants might adversely affect these species. We also recommend that locating turbines in known local bird migration pathways, in areas where birds are highly concentrated, or in areas or landscape features known to attract large numbers of raptors should be avoided, unless mortality risk has been analyzed and the likelihood of significant mortality has been ruled out. NWF also recommend that locating turbines in known local bird migration pathways, in areas where birds are highly concentrated, or in areas or landscape features known to attract large numbers of raptors should be avoided, unless mortality risk has been analyzed and the likelihood of significant mortality has been ruled out. Independent analysis is important to the process. The USFWS Guidelines contain a site evaluation checklist process for pre-development site evaluations and a ranking system for comparison with different sites. These Guidelines recommend that pre-development evaluations should be conducted by a team that includes federal and/or state agency wildlife professionals, academics and industry consultants with no vested interests in the sites selected.

Finally, NWF would like to comment on the DPEIS's range of alternatives. Currently, there are only two alternatives aside from the "no action" alternative—a maximum development scenario and a limited development scenario. Certainly the spectrum of possibilities from no development to maximum development can accommodate more than one version of limited development. Considering the large

80088-10

Comment Analysis Group  
December 10, 2004  
Page 4 of 4

footprints wind facilities require, the final EIS should consider a broader range of limited development scenarios. By doing so, the BLM could accomplish many of its wildlife conservation goals by removing more sensitive and productive wildlife habitat from wind development consideration.

80088-10  
(cont.)

With the above policies adopted and met, NWF would be able to support some level of wind development on BLM administered land. After reviewing the DPEIS, it appears that the BLM has undertaken a good faith effort to adequately address some of the larger issues of concern associated with wind energy development. However, as would be the case with siting any of a variety of industrial facilities, we feel more focused steps should be taken to ensure the long-term protection of wildlife populations and habitat by the BLM as it considers increased wind energy facility permitting on the public's land.

80088-11

With best regards,



Thomas France, Esq.  
Director

**Responses for Document 80088**

- 80088-001:** Thank you for your comment. We appreciate your input and participation in the public review process.
- 80088-002:** As stated in Chapter 1, the National Energy Policy recommends that the Department of the Interior work with other federal agencies to increase renewable energy production on public lands. A requirement that wind energy development opportunities on private lands be “exhausted” prior to consideration of development on BLM- administered lands would be in conflict with the objectives of the National Energy Policy. As required by the Wind Energy Development Program proposed policies and BMPs, operators will be required to identify sensitive habitats and design projects to minimize or mitigate impacts to these habitats. Site-specific analyses, including the development of an appropriate monitoring program, will be conducted for any proposed project on BLM-administered lands. The scope and approach for site-specific analyses will be determined on a project-by- project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific stipulations for incorporation into the POD.
- 80088-003:** As required by the Wind Energy Development Program proposed policies and BMPs, predesign and preconstruction site-specific analyses will be conducted for any wind energy project proposed for BLM- administered lands. The purpose of these studies is to identify important habitats, sensitive wildlife, areas of high wildlife use, and other important ecological and environmental resources that will need to be considered during the design and development of a wind energy facility. The scope and approach for site-specific analyses will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific siting, design, construction, and operation stipulations for incorporation into the POD. Regarding sage-grouse species, existing BLM guidance on the management of sage-grouse and sage-grouse habitat will be incorporated into local, site-specific analyses. Site-specific details are beyond the scope of the PEIS. No text change has been made to the document in response to your comment.
- 80088-004:** The language on the Wind Energy Development Program proposed policies and BMPs has been reworded in the Final PEIS to indicate that these policies and BMPs are required, not suggested, elements of any wind energy development activity on BLM-administered land. The mitigation measures identified in Section 5 are measures that could be incorporated into appropriate phases of a wind energy project. Specific mitigation measures will be developed for all wind energy projects proposed for BLM-administered lands. The appropriate mitigation measures and the approaches for their implementation will be determined on a project-by-project basis in conjunction with input from other

federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific mitigation measures for incorporation into the POD. The identification of site-specific mitigation measures is beyond the scope of the PEIS. No text change has been made to the document in response to your comment.

**80088-005:** The BLM is responsible for establishing policy and required mitigation measures for wind energy development projects on BLM-administered lands. The Wind Energy Development Program proposed policies and BMPs, as listed in the Final PEIS, establish concrete minimum mitigation standards. The language on these proposed policies and BMPs has been reworded in the Final PEIS to indicate that these policies and BMPs are required, not suggested, elements of any wind energy development activity on BLM-administered land.

Operators will be required to comply with the terms and conditions of the ROW authorization. The POD, containing project-specific stipulations (including required mitigation measures), will be appended to the ROW agreement. Failure to comply could result in termination of the ROW authorization.

**80088-006:** Section 6.4.3 acknowledges that wind energy development on BLM-administered lands may require the construction of new transmission lines. Such construction is considered to be a separate but related activity and will require interagency cooperation and multidisciplinary environmental reviews. The potential impacts of transmission system interconnects or expansions that would be required by an individual wind energy project on BLM-administered lands will be assessed as part of the site-specific analyses, with input from other federal, state, and local agencies, and interested stakeholders. Site-specific analyses will have to consider all related construction activities, including construction of any traditional coal/oil/gas powered plants.

**80088-007:** The language on the Wind Energy Development Program proposed policies and BMPs has been reworded in the Final PEIS to indicate that these policies and BMPs are required, not suggested, elements of any wind energy development activity on BLM-administered land. Among the requirements included in the BMPs is the stipulation that all wind energy projects proposed for BLM-administered lands be planned to minimize or mitigate impacts to wildlife, habitat, surface water resources, and other resources. Operators will also be required to identify important, sensitive, or unique habitats in the vicinity of the project and design the project to minimize or mitigate impacts to these habitats.

The identification of exclusion areas from wind energy development will be determined at the project level as part of the site-specific analyses or through local land use planning efforts, with opportunities for full public involvement. As required by the Wind Energy Development Program proposed policies and BMPs, site-specific analyses, including the identification of exclusion areas,

will be conducted for any proposed project on BLM- administered lands. The scope and approach for site-specific analyses will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific stipulations for incorporation into the POD. No text change has been made to the document in response to your comment

**80088-008:** As required by the Wind Energy Development Program proposed policies and BMPs, noxious weed control plans and fire management strategies for minimizing the potential for human-caused fire will be developed for any proposed project on BLM-administered lands. The scope and approaches of these will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific stipulations for incorporation into the POD.

Regarding sage-grouse species, existing BLM guidance on the management of sage-grouse and sage- grouse habitat will be incorporated into the POD. Site-specific details of the noxious weed and fire management plans are beyond the scope of the PEIS.

**80088-009:** As required by the Wind Energy Development Program proposed policies and BMPs, species-specific analyses will be conducted for any wind energy project proposed for BLM-administered lands. The scope and approach for species-specific analyses, which include predesign and preconstruction surveys of important habitats and wildlife occurrence and activity, and monitoring programs for all phases of a wind energy project, will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. The BMPs and policies also require consultations with the USFWS as required by Section 7 of the ESA. The specific consultation requirements will be determined on a project-by-project basis. Through this process, the BLM will develop project-specific stipulations for incorporation into the POD. The BLM and USFWS share a common objective in terms of minimizing potential impacts to wildlife from wind energy development activities. Many of the USFWS voluntary guidance recommendations are imbedded within the BLM's proposed policies and BMPs, reflecting consistent objectives and parallel approaches. However, because the USFWS guidance is interim and voluntary, it is inappropriate to adopt it wholly in the PEIS or in the proposed Wind Energy Development Program.

**80088-010:** The alternatives evaluated in the PEIS consider a range of levels of wind energy development on BLM- administered land. The levels of development are bracketed on the low side by the limited wind energy development alternative and on the high side by the proposed action. Wind energy development will occur under the no action alternative, but the pace of development is likely to be slowed by the absence of a comprehensive management program and the

proposed land use plan amendments. The PEIS evaluates how effective the different management approaches might be at facilitating the development of wind energy (as recommended by the National Energy Policy), while simultaneously ensuring that environmental impacts are minimized to the greatest extent possible.

As stated in the 1st bullet in Section 2.2.3.1, Proposed Policies, the BLM will exclude wind energy development from specific areas. Exclusions of any additional areas from wind energy development will be determined at the project level as part of the site-specific analyses or through local land use planning efforts, with opportunities for full public involvement. As required by the Wind Energy Development Program proposed policies and BMPs, site-specific analyses, including the development of an appropriate monitoring program, will be conducted for any proposed project on BLM-administered lands. The scope and approach for site-specific analyses will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific stipulations for incorporation into the POD. Site-specific analyses are beyond the scope of the PEIS.

**80088-011:** The BLM is committed to full implementation of the proposed Wind Energy Development Program, elements of which require the incorporation of adaptive management strategies and monitoring programs at all wind energy development sites (see Section 2.2.3.1, Proposed Policies, last bullet, and Section 2.2.3.2.2, Plan of Development Preparation, General, 7th bullet). The application of adaptive management strategies will ensure that programmatic policies and BMPs will be revised as new data regarding the impacts of wind power projects become available. The source for a significant portion of the new data is likely to be the required site-specific monitoring programs that will evaluate environmental conditions at a site through all phases of development. A key requirement for the site-specific monitoring programs is the requirement that monitoring observations and additional identified mitigation measures be incorporated into standard operating procedures and project-specific BMPs. These measures should help ensure the long-term protection of wildlife populations and habitat.

## Document 80089

### WindEISArchives

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**From:** windeiswebmaster@anl.gov  
**Sent:** Friday, December 10, 2004 5:49 PM  
**To:** WindEISArchives  
**Subject:** Wind Energy EIS Comment 80089



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Thank you for your comment, Michael Smith.

The comment tracking number that has been assigned to your comment is 80089. Once the comment response document has been published, please refer to the comment tracking number to locate the response.

Comment Date: December 10, 2004 05:48:36PM CDT

Wind Energy EIS Draft Comment: 80089

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Comment Submitted:  
Comments Attached as PDF document.

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windeiswebmaster@anl.gov or call the Wind Energy EIS Webmaster at (630)252-6182.



December 10, 2004

VIA E-MAIL AND FIRST-CLASS MAIL

BLM Wind Energy Programmatic EIS,  
Argonne National Laboratory EAD/900  
9700 South Cass Avenue  
Argonne, Illinois 60439

**Re: Comments on the Draft Programmatic Environmental Impact Statement on Wind Energy Development on BLM Lands in the Western U.S.**

To Whom It May Concern:

On behalf of the National Trust for Historic Preservation, we appreciate the opportunity to comment on the Bureau of Land Management's Draft Programmatic Environmental Impact Statement (DPEIS) on Wind Energy Development. We commend BLM for initiating this programmatic EIS and for making a proactive effort to design a programmatic process for wind energy development. However, we do have a couple of issues we would like BLM to address prior to finalizing the programmatic EIS, in particular: (1) inadequate programmatic policy regarding cultural and historic resources that reflects the purpose and requirements of the National Historic Preservation Act (NHPA); and (2) inadequate programmatic policy for completing Tribal consultation prior to issuing Right of Way (ROW) grants.

**Interests of the National Trust.** Congress chartered the National Trust in 1949 as a private nonprofit organization to "facilitate public participation" in historic preservation, and to further the historic preservation policies of the United States. 16 U.S.C. §§ 461, 468. With the strong support of our 250,000 members around the country, the National Trust works to protect significant historic sites and to advocate historic preservation as a fundamental value in programs and policies at all levels of government. In addition to our headquarters in Washington, D.C., the National Trust operates 25 historic sites open to the public, and eight regional and field offices throughout the country.

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Bureau of Land Management  
 December 10, 2004  
 Page 2

**The DPEIS Does Not Adequately Incorporate Policies for Complying with Section 106 Prior to Approving ROW Grants.**

The DPEIS does provide relatively clear programmatic policies and Best Management Practices (BMPs) for carrying out the proposed wind energy projects. However, the draft does not provide adequate guidance or detail for ensuring that the procedural requirements of the NHPA will be satisfied. The process for compliance with Section 106 should begin prior to issuing ROW grants for testing and monitoring and for commercial development.

• **Procedural and Timing Requirements of Section 106**

In our view, BLM's obligations under Section 106 of the NHPA require completion of the 106 review process, including Tribal consultation, prior to issuing ROW grants. The issuance of a ROW grant is an "undertaking" with the potential to adversely affect cultural and historic properties. The Section 106 regulations define adverse effect to include the "[t]ransfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance." 36 C.F.R. § 800.5(a)(2)(vii) (emphasis added). Like the issuance of oil and gas leases, approving a ROW grant on federal property without adequate restrictions falls within the definition of an adverse effect. See *Montana Wilderness Association v. Fry*, 310 F. Supp. 2d 1127, 1152-53 (D. Mont. 2004); *Southern Utah Wilderness Alliance*, 164 IBLA 1, 28 (Nov. 10, 2004). Despite the fact that approval of site-specific activities will require compliance with Section 106, BLM must initiate the Section 106 process because the ROW grant will provide grantees with certain vested rights to conduct wind energy development. See 43 U.S.C. § 1761 et seq.; 43 C.F.R. Part 2800.

Therefore, BLM must ensure that it will appropriately consider the potential adverse effects to cultural and historic resources associated with ROW grants for wind energy development, and consider whether these adverse effects can be avoided, mitigated, or minimized through the attachment of appropriate stipulations or restrictions to ROW grants, (or whether it is appropriate in some cases, based on the Section 106 analysis, to approve a ROW grant application at all). Only by completing the critical steps set out in the Section 106 regulations prior to approval of ROW grants can BLM truly demonstrate required compliance with Section 106.<sup>1</sup>

<sup>1</sup> BLM should also correct/clarify its explanation of the procedural requirements for complying with Section 106 of the NHPA in Section 3.2 *Regulatory Requirements for Wind Energy Projects*. BLM states that, if historic sites are discovered in connection with a proposed wind energy site, "certain consultations and mitigation actions may be required." DPEIS at 3-14 (emphasis added). BLM's obligation to consult with the SHPO, Tribes, and other interested parties is not discretionary, as suggested by this statement, but required.

80089-1

Bureau of Land Management  
 December 10, 2004  
 Page 3

- **Tribal Consultation Requirements according to Section 106**

Second, the DPEIS does not provide sufficient recognition and discussion of the need to conduct Tribal consultation prior to issuing ROW grants. Section 101(d)(6)(A) of the NHPA requires federal agencies to consult with any tribe that attaches religious and cultural significance to historic properties potentially affected by the undertaking. 16 U.S.C. § 470a(d)(6)(B); 36 C.F.R. § 800.2(c)(2)(ii). The Section 106 regulations clarify that the agency must make a “reasonable and good faith effort” to provide Indian tribes with a “reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, articulate its views on the undertaking’s effects on such properties, and participate in the resolution of adverse effects.” 36 C.F.R. § 800.2(c)(2)(ii)(A); see *Pueblo of Sandia v. United States*, 50 F.3d 856 (10<sup>th</sup> Cir. 1995).

Section 2.2.3.2.2 *Plan of Development Preparation* discusses the need to consult with Indian tribes early in the planning process to identify “issues,” such as the presence of Traditional Cultural Properties (TCPs) and other historic resources, access rights, and impacts to significant visual resources. DPEIS at 2-14. Further, Section 5.12 *Cultural Resources* (discussing potential impacts and mitigation measures) provides that BLM should consult with Native American governments early in the planning process. DPEIS at 5-99. We agree that BLM should complete these activities in the context of the plan of development (POD) to establish necessary mitigation of potential adverse effects early in the planning process. However, the timing for completing tribal consultation must be clarified. Because BLM’s approval and issuance of ROW grants is an “undertaking” with the potential to adversely affect historic properties, we believe that BLM must engage in tribal consultation before issuing ROW grants. Therefore, BLM should clarify the timing for consultation and possibly establish a programmatic process for complying with tribal consultation requirements. See 16 U.S.C. § 470a(a)(2)(E); 36 C.F.R. § 800.14.

Additionally, we object to BLM’s proposed policy statement for government-to-government consultation at Section 2.2.3.1 – “The BLM will initiate government-to-government consultation with Indian Tribal governments whose interests might be directly and substantially affected by activities.” DPEIS at 2-7 (emphasis added). This proposed policy would set an unlawfully high threshold for tribal consultation, which is inconsistent with BLM’s responsibilities under the NHPA. Instead, BLM should adopt policy language that complies with Section 101(d)(6)(B) of the NHPA, which requires Federal agencies to “consult with any Indian tribe . . . that attaches religious and cultural significance to [properties of traditional religious and cultural importance to an Indian tribe].” 16 U.S.C. § 470a(d)(6)(B).

**Recommendation:**

We recommend that BLM revise Sections 2.2.3.1 *Proposed Policies*, 2.2.3.2.2 *Plan of Development Preparation*, and 3.2 *Regulatory Requirements for Wind Energy Projects* to

80089-1  
 (cont.)

Bureau of Land Management  
December 10, 2004  
Page 4

appropriately describe the Section 106 process provided for in 16 U.S.C. § 470f and 36 C.F.R. Part 800. In particular, BLM should:

- (1) Clarify, especially in Section 2.2.3.1 *Proposed Policies*, that completion of the Section 106 process, including identification of historic properties, examination of potential adverse effects, and avoidance, mitigation or minimizing potential adverse effects, must be completed before BLM will issue ROW grants;
- (2) Make a reasonable and good faith effort to identify and consult with all Tribes that demonstrate an interest, and carry out the specific procedural requirements of tribal consultation in accordance with 36 C.F.R. §§ 800.2(c)(2)(i), (ii); and
- (3) Describe a policy that allows *all* interested consulting parties to participate in the Section 106 review process prior to approving or denying a ROW grant, in accordance with 36 C.F.R. § 800.2(c)(5).

80089-1  
(cont.)

**The DPEIS Does Not Accurately Describe Cultural and Historic Resources in the “Affected Environment” Section.**

In our view, the DPEIS’s description of cultural and historic resources potentially affected by wind energy development is incomplete and misleading. First, BLM provides conflicting numbers of cultural resources as being listed on or determined eligible for the National Register of Historic Places. See DPEIS at 4-53 (317 cultural resources as National Register-eligible vs. 12,778 cultural resources as either National Register-eligible or listed vs. more than 9,000 properties recorded during inventories of more than 500,000 acres). Second, the only historic properties identified in the DPEIS (Table 4.7.4-1, “Public Land Treasures under BLM Stewardship in the 11 Western States”) are properties that would not be affected by the proposal for wind energy development in the first place, because they are located on lands that would be protected from this development according to the DPEIS itself (e.g., ACEC’s, NLCS units, etc.). This section creates the false impression that a fair amount of relevant cultural resource survey work has already been done by BLM. It fails to reflect the magnitude of the identification work that will need to be completed in order to evaluate the historic properties potentially affected by the wind energy development program. We recommend that BLM revise this section to more accurately reflect the “affected environment” in terms of cultural and historic resources.

80089-2

**BLM Lands Excluded from Wind Energy Development.**

The National Trust strongly supports the proposed policy to prohibit wind energy development in National Landscape Conservation System (NLCS) units and Areas of Critical Environmental Concern (ACEC). DPEIS at 2-6. Given BLM’s clear mission for NLCS units – to conserve, protect, and restore these nationally significant landscapes, which have outstanding cultural, ecological, and scientific values for the benefit of current and future generations – this is the appropriate action. The programmatic EIS also proposes to prohibit wind energy development in any areas where impacts to resources cannot be mitigated and/or conflicts with existing or planned multiple-use activities exist. Id. at 2-6 to 2-7. While we support this more

80089-3

Bureau of Land Management  
December 10, 2004  
Page 5

expansive scope of protection, it is unclear how BLM intends to determine whether additional areas should be excluded, and if so, how they will be selected. Therefore, for this programmatic policy, we recommend that BLM provide more detailed guidance for determining circumstances where it would be appropriate or necessary to deny ROW applications and/or exclude areas from wind energy development.

80089-3  
(cont.)

Overall, we recognize the importance of developing alternative, renewable energy sources, such as wind energy. To this end, we believe that BLM has an excellent opportunity to craft policies, BMPs, and general mitigation measures through this programmatic EIS in order to avoid and minimize resource cultural resource conflicts, before making irreversible decisions. Although BLM does propose policies that move in the right direction, we believe that the above recommendations will further the goal of promoting a wind energy development program that protects significant cultural and historic resources in compliance with the NHPA.

If you have any questions about our comments, please do not hesitate to contact me directly at (202) 588-6035.

Respectfully submitted,



Michael Smith  
Public Lands Counsel

Cc: Alan Stanfill, ACHP, Denver, Colorado  
Barbara Pahl, NTHP, Regional Director for the Mountains/Plains Office

**Responses for Document 80089**

**80089-001:** No ROWs would be granted without initially conducting all appropriate National Historic Preservation Act reviews.

In the interest of reinforcing this point, the text has been changed at Section 2.2.3.1 to include a new policy bullet regarding consultation required by Section 106 of the National Historic Preservation Act.

**80089-002:** The Draft PEIS states that the numbers provided are likely considerably less than the actual numbers for eligible sites in the West. However, the number was intended to provide some frame of reference for the number of sites that could be present. This number does not alter the conclusion that a site-specific review of cultural resource presence and status of cultural resource surveys would be necessary for any wind development project. The Draft PEIS states that the majority of BLM-administered land in the 11 western states has yet to be surveyed for cultural resources. Thank you for your comments.

**80089-003:** Exclusions of specific areas from wind energy development will be determined at the project level as part of the site-specific analyses. As required by the Wind Energy Development Program proposed policies and BMPs, site-specific analyses, including the identification of additional exclusion areas, will be conducted for any proposed project on BLM-administered lands. The scope and approach for site-specific analyses will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. These discussions will facilitate decisions about exclusion areas.

## Document 80090

### WindEISArchives

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**From:** windeiswebmaster@anl.gov  
**Sent:** Friday, December 10, 2004 6:38 PM  
**To:** WindEISArchives  
**Subject:** Wind Energy EIS Comment 80090



DTCDTPCwindpow  
rcomments\_80090.

Thank you for your comment, Michael Connor.

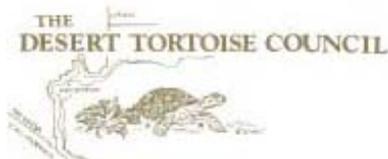
The comment tracking number that has been assigned to your comment is 80090. Once the comment response document has been published, please refer to the comment tracking number to locate the response.

Comment Date: December 10, 2004 06:37:50PM CDT

Wind Energy EIS Draft Comment: 80090

First Name: Michael  
Middle Initial: J  
Last Name: Connor  
Organization: Desert Tortoise Council & Desert Tortoise Preserve  
Address: 4067 Mission Inn Ave  
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State: CA  
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Country: USA  
Privacy Preference: Don't withhold name or address from public record  
Attachment: D:\Tortoise Management Issues\Energy Projects\DTCDTPCwindpowercomments.pdf

Questions about submitting comments over the Web? Contact us at:  
windeiswebmaster@anl.gov or call the Wind Energy EIS Webmaster at (630)252-6182.



December 8, 2004

BLM Wind Energy Programmatic EIS  
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9700 S. Cass Avenue  
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Email: <[windeiswebmaster@anl.gov](mailto:windeiswebmaster@anl.gov)>

Web form at: <<http://windeis.anl.gov/involve/comments/index.cfm>>

Dear Sir/Madam:

The Desert Tortoise Council and the Desert Tortoise Preserve Committee (collectively "commentors") thank you for the opportunity to comment on the Draft Programmatic Environmental Impact Statement (DPEIS) on Wind Energy Development on BLM-administered Lands in the Western United States. The Committee and the Council are both publicly funded non-profit organizations working to ensure the continued survival and recovery of viable populations of the threatened desert tortoise *Gopherus agassizii*, throughout its range in the desertsouthwest. The Council was established in 1976 to promote the conservation of the desert tortoise in the southwestern United States and Mexico. The Council organizes the Annual Desert Tortoise Council Symposium, the Annual Tortoise Handling Workshop, and has produced 21 volumes of the Symposium Proceedings since 1976. The Committee has worked since 1974 to promote the welfare of the desert tortoise and the species that share its habitat through preserve land acquisition and management, and through research and education.

The following comments on the Wind Energy DPEIS are made with the understanding that the agency will require further site-specific environmental review to be completed for each individual wind energy project, as is stated in the DPEIS. Therefore, these comments focus solely on the programmatic measures proposed in the document and are not meant to take the place of any future comments on any individual wind energy project.

#### **Specific Comments**

The National Environmental Policy Act NEPA requires federal agencies to prepare a detailed environmental impact statement (EIS) for "all major actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(C). "NEPA ensures that the agency . . . will have available and will carefully consider, detailed information concerning significant environmental impacts; it also guarantees that the relevant information will be made available to the larger [public] audience." *Idaho Sporting Congress v. Thomas*, 137 F.3d 1146, 1149 (9<sup>th</sup> Cir. 1998) (quoting *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989)). The comments that follow offer suggestions on how the DPEIS can ensure consistency with NEPA in the final PEIS, with a focus on the program's potential effects of the desert tortoise.

80090-1

### A. Baseline Data

Under NEPA, the BLM must "describe the environment of the areas to be affected or created by the alternatives under consideration." 40 C.F.R. § 1502.15. Establishing baseline conditions of the affected environment is an essential requirement of the NEPA process. In *Half Moon Bay Fisherman's Marketing Ass'n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988), the Ninth Circuit stated that "without establishing...baseline conditions...there is simply no way to determine what effect [an action] will have on the environment, and consequently, no way to comply with NEPA."

The gathering and analysis of baseline data for specific species populations is deferred to project-specific environmental review by the DPEIS. Such a deferral is, by most terms, acceptable given the programmatic nature of the document and the fact that it does not propose specific locations for any future projects. However, because the Best Management Practices (BMPs) and other measures contained in the DPEIS will be incorporated into each eventual wind energy project, these measures should contain, at the very least, some general direction as to how and when baseline data must be gathered for each project. As it stands, the DPEIS requires that individual project operators must conduct surveys for state and federally threatened and endangered species "within the project area." (DPEIS at 2-11). The DPEIS is unclear as to what constitutes the "project area." Commentors request that the final DEIS extend such surveys to area of influence of the project, thereby allowing BLM to assess the effects of impacts such as noise, increased fugitive dust, increased vehicular traffic, etc., on surrounding populations, and not just those within the project footprint.

Also, the DPEIS requires these surveys at the pre-construction design stage of each individual wind energy project. Commentors would like to see surveys take place before the site testing and monitoring stage as well, especially in those areas where roads are being built in order to provide access to the monitoring site.

With these minor additions to the final PEIS, BLM can help ensure that adequate baseline data is gathered for each specific wind energy project as called for by NEPA.

### B. Range and Adequacy of Alternatives

NEPA regulations require that an EIS contain a "full and fair discussion of significant environmental impacts." 40 C.F.R. §1502.1. The discussion must address all significant impacts, whether direct, indirect, or cumulative. 40 C.F.R. §1508.8. The document must analyze the environmental impacts of both the proposed action and alternatives to the proposed action, in comparative form, to "sharply defin[e] the issues and provid[e] a clear basis for choice among options by the decision maker and the public." 40 C.F.R. §1502.14.

NEPA requires that an EIS contain a detailed statement of alternatives to the proposed action. The discussion of alternatives, including the proposed action, is the "heart" of the EIS. 40 C.F.R. § 1502.14; *Druid Hills Civic Ass'n, Inc. v. Fed. Highway Admin.*, 772 F.2d 700, 712 (11<sup>th</sup> Cir. 1985). See also *NRDC v. Callaway*, 524 F.2d 79, 92 (2d Cir. 1975) (citing *Monroe County Conservation Society v. Volpe*, 472 F.2d 693 (2d Cir. 1972)) (recognizing that the alternatives analysis is "the linchpin of the entire [EIS]"). Specifically, NEPA requires that the preparing agency "[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." 40 C.F.R. §1502.14. Failure to include the full range of alternatives renders the EIS inadequate as a matter of law. *Dubois v. U.S Dept. of Agriculture*, 102 F.3d 1273, 1289 (1<sup>st</sup> Cir. 1996) ("existence of a non-*de minimis* 'viable but unexamined alternative' renders [an EIS] inadequate") (emphasis in original) (quoting *Resources Ltd., Inc. v. Robertson*, 35 F.3d 1300, 1307 (9<sup>th</sup> Cir. 1993)). See also *Alaska Wilderness Recreation and Tourism Ass'n v. Morrison*, 67 F.3d 723, 729 (9<sup>th</sup> Cir. 1995).

The three alternatives that are analyzed in the DPEIS are the proposed alternative, a “limited wind energy” alternative, and a “no action” alternative. We offer the following comments on each of these.

1. Proposed Alternative

The proposed alternative proposes siting of future wind energy projects over the next 20 years based in part on a Maximum Potential Development Scenario (MPDS). The MPDS identifies the spatial distribution of the maximum possible extent of wind energy development that may occur on BLM-administered lands in 11 western states during this time period. Existing wind resources were modeled, mapped and assigned class designations on a scale of 1 to 7 based on potential for wind power generation, with 1 being the lowest and 7 the highest. Areas with class 3 resources or higher were considered economically developable.

The second aspect of siting decisions under the proposed alternative concerns the designation of the BLM-administered land concerned. Projects are not to be located where BLM-administered lands are off limits to development by virtue of statutory or administrative controls (i.e., Wilderness Areas, Wilderness Study Areas, National Monuments, and National Conservation Areas). (DPEIS at 2-3).

80090-2  
(cont.)

Therefore, the MPDS identifies BLM-administered lands that have the potential to be developed on the basis of present land status and wind resource potential.

Commentors believe that a third selection criterion is necessary in order for the proposed alternative to be adequate under NEPA. Any decision made to site a wind energy development project should reflect use of designated utility corridors in areas where utility corridors have been designated such as in the California Desert Conservation Area. This would minimize or eliminate the need to create new roads in desert habitat. Therefore, the third selection criteria under the MPDS would be “proximity to existing designated utility corridors.”

The PEIS should also include more detailed information about when individual wind energy project sites will be chosen under the proposed alternative. At the very least, the document should contain a timetable for such decisions.

80090-3

Commentors support the stated policy of the proposed alternative (DPEIS at 2-6) that: *“The BLM will not issue ROW grants for wind energy development on lands on which wind energy development is incompatible with specific resource values. Lands that would be excluded from wind energy development include designated areas that are part of the National Landscape Conservation System (NLCS) (e.g. Wilderness Areas, Wilderness Study Areas, National Monuments, NCAs, Wild and Scenic Rivers, and National and Historic Scenic Trails) and Areas of Critical Environmental Concern (ACECs).”*

80090-4

However, commentors note that ACECs were not included in the list of off-limits BLM-administered lands in the MPDS potential site analysis. Commentors request that BLM fix this inconsistency in the final PEIS and include ACECs as one of the types of BLM-administered lands expressly off-limits to wind energy development. (DPEIS at 2-3).

Commentors also note that critical habitat designated under Section 4 of the Endangered Species Act (ESA) is excluded from project siting under the 2002 Interim Wind Energy Development Policy. (DPEIS at Appendix A). This policy must be extended to the proposed alternative in order to avoid wind energy project sitings that could result in adverse modification of critical habitat in violation of Section 7(a)(2) of the ESA. BLM needs to match its potential wind energy development maps with species designated critical habitat maps in order to avoid doing so. The designated critical habitat map for the desert tortoise is available at 59 Fed Reg 5820 (Feb. 8, 1994).

80090-5

### 2. Limited Wind Alternative

The “limited wind energy development” alternative would allow wind energy development on BLM-administered land only where it currently exists (i.e. restricted to existing wind energy projects in Wyoming and California) or where a project is under review or approved for development at the time the ROD is approved for the final PEIS. (DPEIS at 2-26).

Commentors believe this alternative needs to further assess how it would avoid impacts to species and their habitats. A simple statement that there will be “fewer environmental impacts on a regional level as a result of this third alternative because of the restricted level of development” is insufficient. (DPEIS at 2-31) The level of environmental impact is not simply measured by the amount of development, but equally important is the location of such development. An analysis of how siting techniques under this alternative would avoid sensitive habitats is necessary.

Therefore, commentors request that BLM modify its discussion of the “limited wind energy development alternative” to include an analysis of how project siting will pose lesser impacts to sensitive species and their habitats

80090-6

### 3. No Action Alternative

The “no action” alternative defers to the 2002 Interim Wind Energy Development Policy, under which wind energy development projects would continue on BLM-administered lands with NEPA analysis being prepared on a project-by-project basis.

The difference between the “no action” alternative and the proposed alternative is that the 2002 Interim Wind Energy Development Policy does include the BMPs, policies, and other measures contained in the proposed alternative. Therefore, the “no action” alternative allows wind energy development projects to be constructed and reviewed on an individual basis, without any programmatic policies or practices to guide it.

## C. Biological Resources

Direct effects on the desert tortoise cannot not be determined because no specific sites are planned or discussed in the DPEIS. However, the Department of Energy’s initial testing shows medium to high wind power project potential in several areas of both the Mojave and Central basin and range of California, Nevada, and Utah, and the Sonoran basin and range of Arizona, which overlap with the desert tortoise’s current range. (DPEIS at 5-36, fig. 5.9-1). Therefore, the effects on biological resources discussed in the DPEIS, although not species specific, can be viewed as potential effects on the tortoise. If designated critical habitat is not considered as an exclusion criteria the PEIS should review impacts to both the desert tortoise and to its critical habitat.

80090-7

The Best Management Practices (BMPs) and other measures concerning biological resources included in the DPEIS are separated into the four stages of wind energy project development and decommissioning. The adequacy of the document’s analysis of effects on biological resources at each stage is discussed in turn below.

### Stage 1: Site Monitoring and Testing

For the site monitoring and testing stage potential effects on biological resources are described as minimal, with some construction (a meteorological tower) and potential access measures planned for each future project area. While the proposed alternative calls for review of “existing information on species and habitats in the vicinity of the project area to identify potential concerns,” no up-to-date species surveys are required. (DPEIS at 2-11). The potential road construction, construction of the meteorological tower, and the human activity associated with monitoring of the test site, all have the

80090-8

potential for adversely affecting resident tortoise populations. Some potential effects include crushing of individual tortoise and tortoise burrows by vehicular traffic, as well as new perch sites created for avian predators such as ravens by the construction of the meteorological towers.

80090-8  
(cont.)

Commentors request that up-to-date species surveys be required prior to the site monitoring and testing stage, and, where tortoise or tortoise sign are found to be present, that either the test site be relocated, or, any activities necessary for the site monitoring and testing stage take place outside tortoise breeding season.

Stage 2: Construction

For the construction stage, the DPEIS states that the potential effects are considered serious and potentially adverse. The document predicts that the following construction activities will affect the biological resources of the given project area: (1) establishing access to the site, (2) site grading, (3) constructing lay down areas and on-site road system, (4) removing vegetation, (5) installing equipment, buildings, towers and substations, (6) laying cable. (DPEIS at 5-37).

The specific effects of the construction stage on biological resources are predicted to include: fugitive dust, introduction and spread of invasive vegetation, modification, fragmentation and elimination of habitat, mortality of individuals through clearing and grading activities, exposure to contaminants, noise, and interference with behavioral activities.

80090-9

Commentors request a more detailed description of the above mentioned activities and their effects on biological resources. For instance, what level of fugitive dust increase is expected during this stage? What time of year will construction occur? What will the average length of the construction period be? The DPEIS estimates that some wind energy projects will be as large as 1000 acres. How many projects are estimated to be this size? When will their location be determined? Any such project scheduled to take place in tortoise habitat will result in long term habitat loss and it is vital that commentors receive notice of project locations as soon as possible.

Stage 3: Operation

For the operation stage, the DPEIS predicts effects on biological resources by way of electrocution from transmission lines, noise, presence of equipment, exposure to contaminants, site maintenance and daily workforce activities, and predation from an increase in avian predators due to major increase in perch sites.

Commentors request a more complete description of what will be involved in "site maintenance and daily workforce activities." Further, commentors would like to see an estimate of the actual increase in noise levels that will accompany construction. Commentors also request that the final PEIS include a full list of the potential contaminants involved in a wind energy development project, along with what measures will be taken to avoid spills and leaks, and what type of detection devices will be installed on site.

80090-10

Finally, the DPEIS fails to mention the attractive nuisance that will be created by the presence of wind farms and the impact this will have on the biological resources of the area. Wind energy development projects in previously undeveloped areas are sure to attract new human traffic to the area, and with it, the associated impacts on biological resources such as behavioral disturbances, harassment, and species collection. Commentors believe the Final PEIS must mention this impact and discuss what measures will be taken.

80090-11

Stage 4: Decommissioning

For the decommissioning stage, the effects on biological resources are predicted by the DPEIS to be the same as the construction stage, but at a reduced magnitude.

80090-12

Commentors repeat the same requests as included in the *Stage 2: Construction* above.

80090-12  
(cont.)

D. Adequacy of Mitigation

Mitigation measures comprise an important part of the scientific and analytical basis for the comparative analysis required under NEPA. 40 C.F.R. §1502.16 (h). NEPA also requires this section to “[i]nclude appropriate mitigation measures not already included in the proposed action or alternatives” 40 C.F.R. § 1502.14.

Commentors find that several of the mitigation measures included in the DPEIS are either vague or unacceptable. The document states that individual wind energy projects should be designed to minimize and mitigate impacts on species “to the extent feasible.” (DPEIS at 2-11). However, where federal and state threatened species such as the desert tortoise are involved, BLM *must* design the project to minimize and mitigate impacts to species. “Feasibility” is not a consideration in these situations, and commentors request that this language be removed.

80090-13

The DPEIS also calls for a “habitat restoration plan” to be completed for each individual wind energy project. (DPEIS at 5-84). While commentors find the inclusion of these plans to be an important mitigation measure, the DPEIS lacks any concrete standards concerning the proposed make-up of the plan, or how they will be funded, monitored, etc. Commentors call for a more detailed description of these plans in the final PEIS and specifically request that a habitat restoration bond be required and posted by each individual project operator.

80090-14

Finally, commentors would like a discussion of where funding for all of the mitigation measures proposed in the DPEIS will come from to be included in the final DPEIS. Commentors suggest that a mandate calling for proof of mitigation funding prior to construction of individual projects be included in the final PEIS.

80090-15

E. Cumulative Impacts

The CEQ regulations implementing NEPA clearly direct federal agencies to consider the direct, indirect, and *cumulative* effects of their actions on environmental resources. 40 C.F.R. §1508.8. The regulations define “cumulative effects” as:

the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 C.F.R. §1508.7)

The discussion of cumulative impacts on ecological resources contained in the DPEIS does not meet this standard. (DPEIS at 6-18,19). The analysis must consider the incremental impacts of the action in conjunction with the impacts of other past, present, and future actions. This requirement means that BLM must look beyond the life of the proposed action. Moreover, the past, present, and future actions that must be evaluated include all actions – whether federal, non-federal, or private. The DPEIS does not look at cumulative impacts on ecological resources beyond the 20-year period, and does not give an adequate estimation of the impact of long term habitat loss on species.

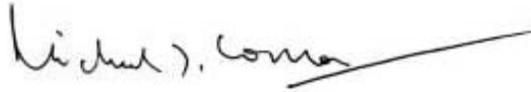
80090-16

Commentors suggest that the BLM provide a more comprehensive assessment of the cumulative impacts of the wind energy development program on ecological resources in order to fully meet the requirements of NEPA.

**Conclusion**

The Desert Tortoise Council and the Desert Tortoise Preserve Committee thank you for the opportunity to comment on the Draft Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States. If we can be of any further assistance, please do not hesitate to contact us by telephone at (951) 683-3872 or by email at <dtpc@pacbell.net>.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Connor". The signature is written in a cursive style and is underlined with a single horizontal line.

Michael J. Connor, Ph.D.  
DESERT TORTOISE COUNCIL  
DESERT TORTOISE PRESERVE COMMITTEE

**Responses for Document 80090**

- 80090-001:** The scope and approach for required site-specific analyses will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. This process will include a determination of the area that will be influenced by the project and, therefore, subject to analyses and future monitoring. The need to conduct site surveys prior to any development activity, including site monitoring and testing, will be identified in initial meetings between the BLM and the operator.
- 80090-002:** Designated corridors providing adequate transmission capacity do not exist across the entire 11-state study area and, therefore, would not be a useful selection criterion for developing the MPDS. Designated corridors that do exist, such as those in the CDCA, will be used to the extent they have available transmission capacity.
- 80090-003:** The timing of individual wind energy projects depends on many factors that affect the decisions of private operators to apply for authorization to develop a project on BLM-administered lands. The generation of a specific timetable is inappropriate because of the wide range of circumstances and factors outside the purview of the BLM.
- 80090-004:** As stated in the 1st bullet in Section 2.2.3.1, Proposed Policies, ACECs are one of the types of BLM-administered lands that will be excluded from wind energy development. The MPDS did not include ACECs in the excluded lands, only because comprehensive GIS data for ACEC locations are not available and, therefore, could not be used as a screening criterion. As noted in the footnote to the referenced bullet, even though the ACECs (and other lands to be excluded) were not included in the MPDS, they will be excluded from wind energy development.
- 80090-005:** As required by the Wind Energy Development Program proposed policies and BMPs, species-specific analyses will be conducted for any proposed project on BLM-administered lands. Species of concern and their habitats will be covered by these analyses. The scope and approach for species-specific analyses will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Species-specific analyses are beyond the scope of the PEIS.
- 80090-006:** Regarding the limited wind energy development alternative, it is accurate to state that there will be fewer environmental impacts on a regional level because of the restricted level of development. The environmental impacts of new development at each of the identified development sites will be, or currently are being, examined through project-specific NEPA analyses. Analyses of site-specific impacts for these projects are beyond the scope of the PEIS and would be redundant with project-specific NEPA analyses.

- 80090-007:** Exclusions of specific areas or habitats from wind energy development will be determined at the project level as part of the site-specific analyses or through local land use planning efforts, with opportunities for full public involvement. As required by the Wind Energy Development Program proposed policies and BMPs, site-specific analyses, including the identification of exclusion areas, will be conducted for any wind energy project proposed for BLM-administered lands. The scope and approach for site-specific analyses will be determined on a project- by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. In addition, the BLM will consult with the USFWS as required under Section 7 of the ESA. The specific consultation requirements will be determined on a project-by-project basis. Through this process, the BLM will develop project-specific stipulations for incorporation into the POD. The identification of project- specific exclusion areas is beyond the scope of the PEIS. No text change has been made to the document in response to your comment.
- 80090-008:** As required by the Wind Energy Development Program proposed policies and BMPs, site monitoring and testing activities on BLM-administered lands will be required to utilize existing roads to the extent possible, and to locate meteorological towers away from sensitive habitats. The proposed policies also require the BLM to consult with the USFWS as required by Section 7 of the ESA on all wind energy projects proposed for BLM- administered lands. The need for species-specific surveys will be determined on a project-by-project basis in consultation with the USFWS and other federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific site stipulations for site monitoring and testing that take into account species listed under the ESA. The specific consultation requirements will be determined on a project- by-project basis.
- 80090-009:** As required by the Wind Energy Development Program proposed policies and BMPs, site- and species-specific analyses will be conducted for any wind energy project proposed for BLM-administered lands. The scope and approach of these analyses, which include surveys of wildlife and habitats, will be determined on a project-by- project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. The proposed policies also require that the BLM consult with the USFWS under Section 7 of the ESA. The specific consultation requirements will be determined on a project-by-project basis. BMPs addressing the construction phase of wind energy projects include measures to suppress fugitive dust generation. Through this process, the BLM will develop project-specific design, siting, construction, operation, and decommissioning stipulations for incorporation into the POD.

It is not possible to provide estimates of how many wind energy projects will be developed, nor the specific sizes of individual projects.

All wind energy projects proposed for BLM-administered lands will be required to undergo site-specific environmental assessment as required under NEPA and stipulated in the proposed Wind Energy Development Program policies. The level of analysis will be determined at the Field Office level on a project-by-project basis. In certain instances, it may be determined that a tiered EA is appropriate in lieu of an EIS.

The identification of details regarding site-specific surveys, POD stipulations, and environmental assessments is beyond the scope of the PEIS. No text change has been made to the document in response to your comment.

**80090-010:** As required by the Wind Energy Development Program proposed policies and BMPs, site-specific environmental assessments will be conducted for any wind energy project proposed for BLM-administered lands. These assessments will address many of the items indicated in the comment. The level of assessment will be determined at the Field Office level. The policies and BMPs also require project-specific PODs to be developed that will identify many of the items requested in the comment (such as work force activities, spill control plans, and pesticide use). A number of the POD components will be developed on a project-by-project basis, in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific stipulations and specifications for incorporation into the POD. The presentation of detailed, project-specific analyses, specifications, and plans is beyond the scope of the PEIS. No text change has been made to the document in response to your comment.

**80090-011:** Section 5.9.3 discusses the potential adverse effects to vegetation and aquatic and terrestrial wildlife from increased human access to areas surrounding wind energy projects, especially when they are located in areas with little current public access. These potential effects include legal and illegal take, increased fire, and disturbance, and are highlighted in Tables 5.9.3-1, 5.9.3-2, and 5.9.3-7. No text change has been made to the document in response to your comment.

**80090-012:** It is not possible in the PEIS to provide a detailed description of the decommissioning activities that may be undertaken at any given site, particularly given that decommissioning may not occur for several decades. A BMP has been added to Section 2.2.3.2.5, Decommissioning, requiring the development and implementation of an approved decommissioning plan prior to termination of the ROW authorization. The decommissioning plan will identify the activities to be undertaken, the potential impacts, and the mitigation measures that will be undertaken. Required elements of the decommissioning plan include a site reclamation plan and monitoring program.

**80090-013:** The term "to the extent feasible" has been removed from the proposed BMPs. In addition, the language on the Wind Energy Development Program proposed policies and BMPs has been reworded in the Final PEIS to indicate that these

policies and BMPs are required, not suggested, elements of any wind energy development activity on BLM-administered land.

**80090-014:** As required by the Wind Energy Development Program proposed policies and BMPs, site-specific habitat restoration plans will be required for any wind energy project proposed for BLM-administered lands (see Section 2.2.3.2.2). The scope and approach of the restoration plans will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific habitat restoration plans for incorporation into the POD. Site-specific habitat restoration plans are beyond the scope of the PEIS.

The BLM will require financial bonds for all wind energy development projects on BLM-administered lands to ensure compliance with the terms and conditions of the ROW authorization and the requirements of applicable regulatory requirements, including reclamation costs. The amount of the required bond will be determined during the ROW authorization process on the basis of site-specific and project-specific factors. The BLM may also require financial bonds for site monitoring and testing authorizations. A requirement regarding the establishment of bonds has been added to the proposed policies (see Section 2.2.3.1).

**80090-015:** The BLM will require financial bonds for all wind energy development projects on BLM-administered lands to ensure compliance with the terms and conditions of the ROW authorization and the requirements of applicable regulatory requirements, including reclamation costs. The amount of the required bond will be determined during the ROW authorization process on the basis of site-specific and project-specific factors. The BLM may also require financial bonds for site monitoring and testing authorizations. A requirement regarding the establishment of bonds has been added to the proposed policies (see Section 2.2.3.1). Noncompliance with the terms and conditions could subject the operator to administrative and possible legal action including termination of the ROW authorization.

**80090-016:** A new BMP has been inserted in Section 2.2.3.1, Proposed Policies, to ensure that site-specific NEPA analyses will identify and assess any cumulative impacts that are beyond the scope of the cumulative impacts addressed in the PEIS.

**Document 80091****WindEISArchives**

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**From:** windeiswebmaster@anl.gov  
**Sent:** Friday, December 10, 2004 6:50 PM  
**To:** WindEISArchives  
**Subject:** Wind Energy EIS Comment 80091



Comments\_of\_OCE  
s\_on\_DPEIS\_2004.

Thank you for your comment, J. Edward Duggan.

The comment tracking number that has been assigned to your comment is 80091. Once the comment response document has been published, please refer to the comment tracking number to locate the response.

Comment Date: December 10, 2004 06:49:26PM CDT

Wind Energy EIS Draft Comment: 80091

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Attachment: E:\BLM\Comments of OCES on DPEIS\_20041209.doc

Comment Submitted:  
See Attachment

Questions about submitting comments over the Web? Contact us at:  
windeiswebmaster@anl.gov or call the Wind Energy EIS Webmaster at (630)252-6182.



December 10, 2004

BLM Wind Energy Programmatic EIS  
 Argonne National Laboratory  
 EAD 900/900, 9700 S. Cass Avenue  
 Argonne, IL 60439  
 windeis.anl.gov

For: United States Department of the Interior  
 Bureau of Land Management  
 Washington, D.C. 20240

**Re: Comments of Oak Creek Energy Systems, Inc. (OCES) on the Draft Programmatic Environmental Impact Statement (DPEIS) on Wind Energy Development on BLM-Administered Lands in the Western United States U.S. Department of Interior – Bureau of Land Management (DOI-BLM).**

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**Introduction**

OCES commends the U.S. Department of the Interior (DOI) and its Bureau of Land Management (BLM) in moving forward the referenced program environmental assessments. Renewable wind energy is increasingly recognized as a key element in America's energy future, possessing dimensions of sustainability, economy and security matched by few other energy resources. DOI-BLM's commitment to a comprehensive

80091-1

and rational framework within which scaled wind energy development can proceed on public-administered lands is consistent with a consensus of public opinion that favors renewable energy.

While the comments below express reservations regarding the preliminary and evolving state of the DPEIS, these are intended to move the PEIS proceeding forward with constructive efficiency. The goal of this PEIS should be to resolve as many broad policy matters as feasible and expeditious within decisioned timelines. A sound foundational document that quiets controversy where consensus has been formed, and organizes the application of planning guidelines is the PEIS mission. While this has yet to be achieved, OCES is confident it can be fashioned, and submits the following comments in that spirit.

80091-1  
(cont.)

### **EXECUTIVE SUMMARY**

While the DPEIS represents progress on creating a foundation reference for multiple implementation purposes, the quality of the analysis is uneven. It is strong where it catalogues data issues; it is weak and not sufficiently justified in attempts to assert finalized, detailed Best Management Practices (BMP's) and mitigation programs. The mapping of wind resource estimates, potential development areas and Avoidance and Exclusion areas is a demanding fundamental undertaking of the PEIS. However, these mappings should still be regarded as preliminary, and **are an area where re-circulation for study and comment is required.**

80091-2

The proposed mitigations and BMP's addressing impacts to visual resources were narrowly culled, much from a single individual (Gipe) whose orientation to the European project experience is not simply transferable to the U.S. Western lands subject of PEIS, nor cognizant of the needs of developing U.S. national renewable energy resource strategy. While Gipe's sensitivities may find use and acceptance in village and farmstead settlement locales, where permitting is informed by the local building permitting experience, this approach is of marginal utility to industrial and special remote facilities

80091-3

siting on BLM-administered lands. The assertion in the PEIS Executive Summary (p. ES-5) that “Ultimately, decisions regarding the magnitude of potential visual impacts would be made by local stakeholders.”, **is flat-wrong policy with highly obstructive and draconian potential**, implying a local stakeholder veto based solely on a subjective aesthetic assertion of one response-viewpoint to a potential project. **The PEIS must seek a fair balancing test formulation for assessing visual resource impacts, one that fairly weights effects impacts costs and benefits of wind energy, the light-footprint energy resource.**

80091-3  
(cont.)

Additional evaluation of Land Use categorization specific to Wind Energy development applications is needed; the Land-Use conclusions reached in Table C-1 (“Proposed Changes and Rationales for Land Use Plan Amendments”) **should be regarded as still preliminary, requiring re-circulation.** Some of the deficiency of the omission of designation of lands for ROW bidding process may be alleviated in extended reviews.

80091-4

This PEIS should not be rushed to a Record of Decision (ROD) in a manner that forfeits the overarching mission for a program document that obtains broadest practical consensus and accepted data, criteria and analysis. Modestly extending the PEIS promulgation timeline, employing the use of Supplements for broad areas requiring fuller justification, and focused workshops, are methods to keep the PEIS on a timely track for development. An extended timeline is unquestionably preferable to a PEIS of substantially more limited use and reliability.

80091-5

**THE DPEIS REQUIRES REFORMATION  
AND POSSIBLE REORGANIZATION.****THE RECORD OF DECISION (ROD)  
SHOULD NOT BE PREMATURELY SOUGHT.****Overview**

The diversity of the U.S. Western lands subject of the DPEIS is countenanced, and running with that, the extensive nature of the DOI-BLM-Field Office (FO) system that is the operational basis of land stewardship. However, the uneven application and uses to which the DPEIS is proposed to be made for BLM-FO Land Use Plans and Resource Management Plans (RMP) is troubling. While it may not be expected that a uniform set of policies should be perfected at this stage, OCES finds the proposed Land Use applications too ad hoc. The goal of the ROD in this regard should be more ambitious. Leaving so many policy-level deliberations to a Field Office level invites future delays and rounds of meetings and orientations that could otherwise be reduced. A balance should be struck between further PEIS review, and remanding review to FO levels.

OCES certainly concurs that an adopted PEIS can be used as a foundational tiering document for future Land Use plans and RMP's. However, the wholesale exemption of California and Arizona, as well as other categories exempted from reference, unwisely limits the usefulness of this PEIS. It could invite challenges of incompleteness and discoordination where environmental assessments and mitigations are evolved wholly separate from this program is effort.

**Recommendation:** *The PEIS should reduce the scope of lands exempted from PEIS application, and propose specific ways to converge and conform exempted areas to it's findings. Supplementation may be a necessary procedural tool.*

80091-6

**I. The quality of proposed Best Management Practices, (BMP), proposals is uneven.**

BMP development is a critical work product of the PEIS effort. There is an inherent tension to promulgating specific BMP's while at the same time adhering to the principle that a program-level EIS should not set down specific practices that are more effectively managed at a Land Use plan, RMP and project plan level. While the wind energy industry has the experience to embrace and implement sets of BMP's, it is still a young industry in which the BMP manuals, so to speak, can be expected to evolve. The DPEIS does not recognize this dynamism, nor provide a process to accommodate BMP evolution and updating.

80091-7

**Recommendation:** 1) BMP's might be "de-coupled" from the PEIS primary assessment, and issued separately in Supplement(s). 2) While the DPEIS notes (p. 5-110) that mitigation measures common to a variety of activities other than wind energy development are not encompassed within this PEIS specific to wind development, a BMP Supplementation strategy or other focused review method, could better coordinate and integrate such common mitigation provision into instructions and BMP's that are specific to wind energy development applications. 3) BMP's should be formally revised every two (2) years in an accepted stakeholder process, for the next ten (10) years.

**SPECIAL TOPIC – Objection to proposed BMP**

**The visual resources BMP's are narrowly based and cannot be accepted. The DPEIS has distinctly erred in its proposals for BMP's for visual resource impact mitigation.** The misconceptions arise broadly along two primary failings: 1) the BMP's are inordinately specific, standing out as a textbook example of specificity that does not belong at a program-level, and 2) a number of BMP's are narrowly based on a single author's (Gipe) opinions, and certainly do not represent an industry consensus, much less a public consensus. Gipe does not have scale development industry experience or

80091-8

engineering knowledge borne from project operations layout and investment criteria, on which to base his ramifying conclusions for BMP for visual resource mitigation.

While the industry recognizes many critical responsibilities for responsibly siting facilities, e.g. reducing avian and other wildlife impacts -- and that siting, contouring, and surface cover management warrant studied siting design and management, the justification for dramatically reducing wind energy development output efficiencies based on subjective human aesthetic responses has not been made. This is extremely controversial because it is inherently subjective. The DPEIS acknowledges this, but then proceeds to incorporate the "Gipe siting guidelines." The unintended consequences of these would be to substantially reduce project efficiencies in many cases. Electrical output could be reduced to as little as to one-half or one-third of optimal feasible output (H. Romanowitz, OCES, 2004).

The proposed BMP's to mitigate visual impacts do not and cannot integrate and rationalize aesthetics with other site-specific conditions including wildlife impact avoidance and mitigation. Further unintended consequences of harms to wildlife could occur by following the specific aesthetics-based BMP's "from above" in the PEIS. This could indeed occur if such BMP's were used as a cudgel to distort siting deliberations and reviews.

The consequent loss of project efficiencies from irrational siting BMP's would be multiply perverse:

- 1) infeasibility of development;
- 2) loss of renewable energy resource opportunity, and consequent increased environmental impacts from much higher-impact energy fossil-fuel sources.

**Another clearly foreseeable perverse impact of projects that attempted to labor under foolish siting criteria, would be a reduced revenue basis that would directly translate to reduced commitment and funding of mitigation measures generally.**

**Recommendation:** *Visual resource impact BMP's, as well as any other BMP area found deficient and /or controversial, should be subjected to further DPEIS review. Special surveys and studies of the states-of-art and engineering, as well as stakeholder workshop(s), may be warranted and useful to achieving resolutions at PEIS level, that will intelligently inform local visual impact planning concerns.*

80091-8  
(cont.)

**II. The proposed mappings and adoptions of “Excluded, “  
“Avoidance,” and “Automatic-Avoidance” Areas is premature,  
overreaching and not fully justified commensurate with  
implications.**

The mapping of wind resource potential and development eligibility and exclusion boundaries is recognized as a foundational element of the PEIS, and the efforts thus far represent hard work and progress in defining the fields. However, the implications of prematurely adopting such maps as “bright line” finalized determinations are so sweeping, that this aspect of the DPEIS **must remain at a draft/preliminary stage for some circulation, and even special additional study.** OCES does not see the requisite policy consistency and coherence in Land Use designations that are proposed. The justification in many Land Use designations in Table C-1 are simply not in the record or not referenced. While preservation designations such as exist in the NLCS designations have basis, they may prohibit wind projects at sites within NLCS areas that can leave a lighter footprint and impacts than currently exist due to built-environment impacts.

80091-9

What is suggested here, is not wholesale revisitations of such broad designations as encompassed by the NLCS, but rather, **drawing of an exemption or permitting process for wind development that would be subject to more stringent standards and constraints, and showings of needs in restricted areas.** Additionally, where state and local public jurisdictions or entities make application for wind energy development, or support such development, such showing should be accorded increased weight as a matter of policy.

The DPEIS wind resource mappings do not account for fundamental technology-change factors, such as breakthroughs in energy storage, and incremental evolution of the electrical grid's resiliency and flexibility. The mappings do not account for radical market-change events in hydro-carbon markets, or catastrophic events and trends that could shift energy reliance ever-more into the electrical sector. Major shifts in sectoral sourcing of energy (e.g. increased use of electricity in transportation) could have dramatic effects on wind energy source economics and desirability.

It is not expected the DPEIS should depart deeply into academic and highly speculative scenarios. However, scenario analysis based on limited sets of assumptions and factors should be performed, at least to provide a better understanding of when and how mappings accepted for Land Use decisions are revised.

**"Checkerboard" holdings.** For BLM-administered lands designated as Avoidance or Exclusion "checkerboarded" amongst private holdings, exemption/permitting criteria and showing requirements should be promulgated. This is required in recognition of the property interests of private holders.

**Recommendation:** 1) *In addition to the recommendations above for land use review and mappings, consideration of an additional/alternative system of categories and layers that is wind-development specific is in order. Project permitting through exceptional showings, land-use overlays for incidental activities, and other categories of development-related activity, e.g. ROW use can provide flexibility without loss of desired protection. Surveys, studies and workshop(s) can assist the drawing of alternative Land-Use categories.* 2) *Consideration should be given to de-coupling the mapping and land-use designations onto a Supplemental-issuance track.*

80091-9  
(cont.)

**III. Omission of designation of lands for ROW bidding process  
represents another major DPEIS discontinuity.**

It is recognized that there is a speculative nature to attempting to scope ROW transmission relationships to generation project proposals in an ever-evolving electrical grid. However, to completely bypass it from PEIS cognizance, may be to introduce major future environmental clearance barriers – likely it will appreciably lengthen on-line startup times and costs. The PEIS needs to make more clear, a BLM policy commitment to wind energy development, addressing transmission issues with more guidelines and direction. Again, it may serve to de-couple assessment, policies and BMP development onto a Supplementation track.

Other existing activities and new ones sought for use of BLM-administered lands also have needs for established as well as new utility corridors. This too, is daunting and sprawling analysis that needs coordination. ROW corridors for wind energy use may well be integrated and coordinated with other activities. OCES is not prepared to suggest what level of coordination can be achieved at this juncture. An effort at displaying existing accepted utility corridors within this PEIS appears to be a minimum task that should be included in PEIS Appendices.

80091-10

**PROCEDURAL CONCLUSION:**  
**STATUS AND DIRECTION OF THE DPEIS**

OCES's response comments raise such substantive reservations and recommendations that the DOI-BLM must carefully evaluate the appropriate procedural next-steps. Four follow-on review pathways are summarized here, to assist in a strategy for the comprehensive PEIS sought. Options include:

- 1) **Telescope the PEIS proceeding**, permitting extended DPEIS re-circulation and comment period (e.g. six months), workshops, surveys, special analyses / studies.
  
- 2) **De-couple major work-group / study areas, e.g. for:**
  - a) Best Management Practices (BMP) development;
  - b) mapping, Land Use categorization specific to Wind Energy Development; promulgation of exemption/permitting method(s) for restricted areas;
  - c) method (s) for designation of lands for ROW bidding process;
  
- 3) **Combination of 1) and 2)**
  
- 4) **Determining methodological areas that should be subject to periodic formal updating (2, 5, 10 years)**

80091-11

**Closing comment.** Within a reformed and reorganized PEIS development effort, a more coherent and consistent framework for relating PEIS policies, work products, Supplements (potential), and future updates (potential) should be established. The administrative efficiencies inherent to more detailed time lining and application to Land Use plans and RMP's will be substantial, and undoubtedly accelerate renewable wind energy development, a fast-rising national energy mission.

80091-11  
(cont.)

OCES appreciates this opportunity to contribute comments and recommendations to the DPEIS review.

Respectfully Submitted,



J. Edward Duggan  
Vice President of Operations  
Oak Creek Energy Systems, Inc.

**Responses for Document 80091**

- 80091-001:** Thank you for your comment. We appreciate your input and participation in the public review process.
- 80091-002:** The level of analyses conducted, as well as the scale and resolution in the maps, in the PEIS is appropriate for a programmatic evaluation and is adequate to support the development of policies and BMPs. As required by the Wind Energy Development Program proposed policies and BMPs, site-specific analyses, including the development of an appropriate monitoring program, will be conducted for any proposed project on BLM- administered lands. The scope and approach for site-specific analyses will be determined on a project-by-project basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. Through this process, the BLM will develop project-specific stipulations for incorporation into the POD. In addition, the BLM is committed to full implementation of the proposed Wind Energy Development Program, elements of which require the incorporation of adaptive management strategies and comprehensive monitoring programs at all wind energy development sites (see Section 2.2.3.1, Proposed Policies, last bullet, and Section 2.2.3.2.2, Plan of Development Preparation, General, 7th bullet). The application of adaptive management strategies will ensure that programmatic policies and BMPs will be revised as new data regarding the impacts of wind power projects become available. The source for a significant portion of the new data is likely to be the required site-specific monitoring programs that will evaluate environmental conditions at a site through all phases of development. A key requirement for the site-specific monitoring programs is the requirement that monitoring observations and additional identified mitigation measures be incorporated into standard operating procedures and project-specific BMPs.
- 80091-003:** The proposed mitigations for addressing visual impacts were selected from a variety of sources, including existing BLM Visual Resource Management policies and available literature specific to wind power. The involvement of local stakeholders, defined as all interested parties (including federal, state, and local agencies; Tribal governments; local residents; and members of industry), is a necessary part of the environmental review process.
- 80091-004:** The scope of the proposed land use plan amendments identified in Appendix C is limited to the adoption of the Wind Energy Development Program proposed policies and BMPs and the identification of a limited number of additional exclusion areas. The BLM has determined that the PEIS process adequately meets the NEPA requirements for public review of these proposed amendment changes. As required by the proposed policies and BMPs, site-specific analyses, including the development of an appropriate monitoring program, will be conducted for any proposed project on BLM-administered lands. The scope and approach for site-specific analyses will be determined on a project-by-project

basis in conjunction with input from other federal, state, and local agencies, and interested stakeholders. The scope and appropriate level of site-specific NEPA analyses will assess local conditions and site-specific environmental impacts, and will support the development of project-specific stipulations.

The identification of lands for competitive ROW bidding will be addressed in local land use planning activities as local interest develops.

- 80091-005:** Thank you for your comment.
- 80091-006:** The proposed land use plan amendments are expected to facilitate the processing of ROW applications for wind energy development on BLM-administered lands. Table 2.2.4-1 explains that plans in California and Arizona are not included because plan amendments that address wind energy development are already underway in those states, or are planned. Text in Section 2.2.4 states that plans not amended by the PEIS can be amended or revised in the future to address wind energy development. Therefore, it is inaccurate to say that there has been a “wholesale exemption of California and Arizona.” The exclusions of BLM-administered lands from wind energy development proposed in the PEIS were determined on the basis of analyses of several laws, regulations, and policies that preclude development of any kind (e.g., the Wilderness Act). Providing a clear definition of these exclusions in the proposed program will allow prospective wind energy developers to focus their efforts on lands that are available for wind energy development subject to the policies and BMPs described in the PEIS.
- 80091-007:** The BLM is committed to full implementation of the proposed Wind Energy Development Program, elements of which require the incorporation of adaptive management strategies and monitoring programs at all wind energy development sites (see Section 2.2.3.1, Proposed Policies, last bullet, and Section 2.2.3.2.2, Plan of Development Preparation, General, 7th bullet). The application of adaptive management strategies will ensure that programmatic policies and BMPs will be revised as new data regarding the impacts of wind power projects become available. The source for a significant portion of the new data is likely to be the required site-specific monitoring programs that will evaluate environmental conditions at a site through all phases of development. Other sources of new data will be research and development activities undertaken by federal and state agencies, industry, and interested stakeholders.
- 80091-008:** Many sources were consulted in developing the recommendations in Section 5.11.6 and the BMPs in Section 2.2.3.2.2, Visual Resources, for mitigating visual impacts. Design decisions will be made at a site-specific level in conjunction with input from other federal, state, and local agencies, and interested stakeholders (as part of the environmental review process) and other environmental and cost-benefit considerations. The scope and approach for site-specific analyses will be determined on a project-by-project basis. Through

this process, the BLM will develop project-specific stipulations for incorporation into the POD. Site-specific analyses are beyond the scope of the PEIS.

**80091-009:** Exclusion of the National Landscape Conservation System (NLCS) (with the exception of the California Desert Conservation Area, see Section 5.10.1) and Areas of Critical Environmental Concern (ACECs) from most development, including wind energy development, is consistent with BLM national policy and is appropriate for application and use in defining wind energy development opportunities at the programmatic level. The maps included in the PEIS are appropriate for the level of analyses required to develop and evaluate a Wind Energy Development Program. Given the size of the 11-state study area and the scale of the maps presented in the PEIS, it is not feasible to evaluate wind energy resources, the status or condition of BLM lands, or other spatial attributes at a more local level. Furthermore, such an evaluation would not enhance or improve upon the effectiveness of the Wind Energy Development Program. As required by the program's policies and BMPs, detailed analyses of specific parcels of BLM-administered land will be conducted at the site-specific level on a project-by-project basis. More specific information about the location of lands excluded from wind energy development can be obtained at the local Field Office. The Program requires that BLM employ adaptive management strategies to the oversight of wind energy development on BLM-administered lands. The BLM will monitor the level of wind energy development into the future as well as the effectiveness of its policies and BMPs. If necessary, adjustments to the programmatic requirements will be made.

**80091-010:** As discussed in Sections 1.2 and 2.2.4, none of the alternatives in the PEIS includes amendment of land use plans to provide for competitive right-of-way bidding, in part, because interest in this approach was limited to two areas in California (the Palm Spring-South Coast Field Office and the Ridgecrest Field Office). If competitive bidding is conducted, it will be addressed on a case-by-case basis in local BLM land use planning efforts.

Section 6.4.3 acknowledges that wind energy development on BLM-administered lands may require the construction of new transmission lines. Such construction is considered to be a separate but related activity and will require interagency cooperation and multidisciplinary environmental reviews. New text has been added to Section 6.4.3, to describe the existing and proposed rules and regulations governing wind project grid interconnections and transmission system upgrades. These regulations will be applicable to wind energy development projects on BLM-administered lands.

The designation of new transmission corridors on BLM-administered lands will occur as a result of interagency consultations, not as a result of a unilateral decision by the BLM. Any such designations would be evaluated through either regional or local land use planning efforts, with opportunities for full public

involvement. The potential impacts of transmission system interconnects or expansions that would be required by an individual wind energy project on BLM-administered lands will be assessed as part of the site-specific analyses, with input from other federal, state, and local agencies, and interested stakeholders. The maps in Appendix B include available information showing existing transmission lines. Maps displaying existing utility corridors have not been added to the PEIS; this information will be evaluated on a project-by-project basis.

**80091-011:** The level of analyses conducted in the PEIS is appropriate for a programmatic evaluation and is adequate to support the development of policies and BMPs. The BLM has determined that the PEIS process adequately meets the NEPA requirements for public involvement. Site-specific analyses to support the development of project-specific requirements will be conducted for all proposed wind energy development projects on BLM-administered lands in conjunction with input from other federal, state, and local agencies, and interested stakeholders.

In addition, the BLM will require the incorporation of adaptive management strategies and appropriate monitoring programs at all wind energy development sites (see Section 2.2.3.1, Proposed Policies, last bullet, and Section 2.2.3.2.2, Plan of Development Preparation, General, 7th bullet). The application of adaptive management strategies will ensure that programmatic policies and BMPs will be revised as new data regarding the impacts of wind power projects become available, and that additional mitigation measures will be incorporated into standard operating procedures and project-specific BMPs if needed to mitigate impacts.