

**U.S. Department of the Interior
Bureau of Land Management**

Finding of No Significant Impact

DOI-BLM-NV-S010-2010-0018-EA

November 9, 2010

Castle Mountain Wind Energy Amendment 1

APPLICANT

Oak Creek Energy Systems, Inc.

GENERAL LOCATION

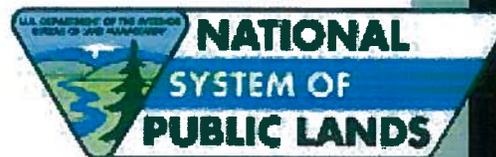
Near Searchlight, Nevada

BLM Case File Serial Number

N-82729/01

PREPARING OFFICE

**U.S. Department of the Interior
Bureau of Land Management
Southern Nevada District Office
Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5172
702-515-5155**



**Finding of No Significant
Impact: DOI-BLM-NV-
S010-2010-0018-EA**

Table of Contents

1. Finding of No Significant Impact	1
1.1. Castle Mountain Wind Energy Amendment 1	1
1.2. Context:	1
1.3. Intensity:	1
1.4. Signed:	5

Chapter 1. Finding of No Significant Impact

1.1. Castle Mountain Wind Energy Amendment 1

NEPA DOI-BLM-NV-S010-2010-0018-EA; Case File N-82729

I have reviewed Environmental Assessment (EA) NEPA DOI-BLM-NV-S010-2010-0018-EA dated **November 9, 2010**. After consideration of the environmental effects described in the EA, I have determined that the proposed action with the addition of visual resource mitigation identified in Alternative A, will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required.

The additional mitigation that will be required for the Bureau of Land Management (BLM) authorization of this project is the following: The 120-meter tower must use an Audio/Visual Warning System (AVWS) approved by the Federal Aviation Administration (FAA) in order to keep flashing lights in a passive mode until aircraft are detected within the range of the automated radar detection system.

I have determined that the proposed action with mitigation measures, is in conformance with the approved Las Vegas Resource Management Plan signed October 1998 and is consistent with applicable plans and policies of county, state, tribal and Federal agencies. This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

1.2. Context:

The Castle Mountain Wind Energy Right-of-Way (ROW) Grant (N-82729) was issued to Oak Creek Energy Systems, Inc. (OCES) on February 25, 2009 for the placement of nine, 60-meter tall anemometer towers. Following BLM's issuance of the grant, OCES submitted an amended ROW application on August 6, 2009 requesting alternate placements for two of the towers, and requested that one of the towers be constructed to a height of 120-meters. Additionally, OCES requested approval to place sonic detection and ranging (SODAR) units in a 10' x 10' space at each of the two tower locations.

The lands proposed for the Castle Mountain Wind Energy ROW Grant Amendment are public lands administered by the BLM. The two anemometer towers that are the subject of the proposed amendment would be constructed west of Searchlight, Nevada. These towers are referred to as NV-06 and NV-07 within the original ROW grant and the amended locations are described as ALT NV-06 and ALT NV-07 in this proposed ROW grant amendment.

1.3. Intensity:

The following discussion is organized around the 10 Significance Criteria described at 40 CFR 1508.27.

1. Impacts that may be both beneficial and adverse.

The proposed project amendment would provide wind data to determine the suitability of the area for wind generation. The proposed project amendment includes the change of location of two previously approved anemometer towers and the addition of SODAR units at each location. The anemometer tower amendment at ALT NV-07 would include a

120-meter anemometer tower that would enable the proponent to measure wind data at the rotor hub height of a wind energy generation unit.

This authorization to collect wind data would not convey to OCES the right to later develop a wind energy facility (wind farm). Any proposal for development of a wind farm at this location would require additional site-specific environmental analysis and public involvement. It would also require a change to the Las Vegas RMP since the area is currently managed to protect highly scenic resources.

The two proposed towers are in a Visual Resource Management (VRM) Class II area. The objective of this class is to retain the existing character of the landscape. The level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic landscape.

The tower lighting would be a dual system with red lights that are flashing beacons and/or steady-burning lights for nighttime, and medium intensity flashing white lights for daytime and twilight use. This lighting would adversely affect the visual resources of the area because the red and white vertical lights would fail to repeat the characteristic form, line, color, and texture of the surrounding landscape and would attract the attention of the casual observer.

2. The degree to which the proposed action affects public health or safety.

There are two aircraft landing strips located near the project area, the Searchlight Airport which is due east of the proposed project and the Cal-Nev-Ari Kidwell Airport which is southeast of the proposed project. The FAA has issued a Determination of No Hazard to Air Navigation provided that the proponent, OCES, follows the lighting and marking requirements described in Aeronautical Study No. 2010-WTW-7928-OE, dated, July 9, 2010. The proposed project with the additional mitigation measures has been designed to reduce hazards to aircraft flying in the area through intensive mitigation requirements.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

Important features located near the proposed project area include the historic Walking Box Ranch built in 1931, located west of Searchlight, Nevada, originally owned by silent film era stars Rex Bell and Clara Bow. Other important public lands in the vicinity that are ecologically critical areas and protected with special designations include the South McCullough Wilderness, the Wee Thump Joshua Tree Wilderness, the Mojave National Preserve, and the Piute-Eldorado Valley Area of Critical Environmental Concern.

4. The degree to which the effects on the quality of the human environment are likely to be controversial.

Public input was solicited on the proposed action through the NEPA planning process. The BLM posted a copy of the EA in the NEPA Register. The EA was made available to the public to review for 15 calendar days starting October 19, 2010 through November 3, 2010.

The BLM received six (6) comments on the proposed project. The comments were from the general public, a state agency, and the proponent. The BLM received one comment with no

issues from the State of Nevada, Department of Administration, State Clearinghouse. One comment was in favor of the proposed project to help add employment to the region. One comment received from OCES (the proponent) was in favor of the proposed project because OCES is working in partnership with Desert Research Institute (DRI) who has a grant from National Renewable Energy Laboratory (NREL) to capture unique research data. The other three comments were against the proposed project due to scenic value issues, flashing lights, and the potential for wind energy turbines being installed at this location.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The degree for possible effects on the human environment were identified as low. The BLM established mitigation measures implemented by the proponent would meet FAA requirements.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The proposed action would include the requirement to mitigate the visual effects of lighting on the 120-meter tower with the use of an AVWS to keep flashing lights in a passive mode until aircraft are detected within the range of the automated radar detection system. This decision would not establish a precedent for future actions with significant effects, nor represent a decision in principle about a future consideration. The AVWS mitigation would allow the 120-meter tower to meet VRM Class II management objectives, and would bring the proposed action with the additional mitigation measures into conformance with the Las Vegas RMP. As referenced above, this authorization to collect wind data with anemometer towers and SODAR units would not convey to OCES the right to later develop a wind farm in the area. Any future wind farm development in the area would require BLM to make a land use planning decision to manage the area for either VRM Class III or Class IV objectives, rather than the current VRM Class II objectives. While such a decision can be considered in the planning process of the Las Vegas RMP Revision, it would require additional public involvement and environmental analysis in the RMP/EIS.

According to BLM Policy (WO IM 2006-216), a “type 2” ROW grant for a site-specific wind energy testing and monitoring project area, such as the Castle Mountain Wind Energy ROW Grant, is issued for an initial term of 3 years, plus the additional time that will allow the grant to expire on December 31 of the final year of the authorization. Therefore, the original Castle Mountain Wind Energy ROW Grant which was issued on February 25, 2009 will expire on December 31, 2011. That expiration date would be the same for the two proposed towers described in this FONSI that are the subject of this proposed ROW grant amendment. In order to extend the right to test and monitor wind energy at this location beyond December 31, 2011, OCES would need to file a separate application and plan of development for a “type 3” wind energy development project prior to December 31, 2011, the initial term of the ROW grant. A future “type 3” wind energy development project, such as a wind farm, would require additional public involvement and environmental analysis. As stated previously, BLM would also need to make a land use planning decision through the Las Vegas RMP Revision process to manage the area for less restrictive visual resource class objectives, such as VRM Class III or IV, rather than the current VRM Class II objectives. Additionally, there is no guarantee that such a change would be approved.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

The approval of this project would not be related to other actions with individually insignificant but cumulatively significant impacts. This proposed amendment to the Castle Mountain Wind Energy Project (N-82729) ROW grant includes the right to test for wind energy potential and would include a defined wind energy generation project area should the data prove favorable. However, in that case, a separate ROW application for wind energy generation would be required and the application would need to be evaluated on its own merits. It would also require a change to the RMP as described above in item six (6), paragraph two (2).

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.

An intensive archeological inventory to identify districts, sites, or other properties eligible for listing to or included on the National Register of Historic Places (NRHP) was completed for the proposed action. There were no districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP that would be impacted by the proposed action.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.

Since desert tortoise sign has been found in the vicinity and undisturbed habitat exists in the area, there is potential for desert tortoises to wander into the proposed project area. If not noticed and avoided during construction, desert tortoises could be either injured or killed (by crushing) or harassed (by being moved out of harm's way).

Section 7 Consultation for this proposed project is covered under the Programmatic Biological Opinion for Multiple Use Activities (1-5-97-F-251) contingent on compliance with the terms and conditions for Area C. Minimization measures in the above biological opinion contain measures to reduce potential impacts to desert tortoise.

- a. The proponent is required to have an authorized biologist monitor routes that do not follow existing roads to prevent crushing of tortoises and burrows. Specifically, the authorized biologist will walk in front of vehicles while travelling over undisturbed habitat.
- b. The authorized biologist will survey areas prior to surface disturbance wherein vegetation will be removed and remain onsite during construction/installation operations.
- c. The proponent or the contract biologist must receive approval from the Fish and Wildlife Service prior to start of construction activities. The Fish and Wildlife Service has 30 days to respond once request to approve tortoise biologist is received.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The proposed action with the additional mitigation measures violates no Federal, state, or local environmental protection laws.

1.4. Signed:

Robert B. Ross Jr. Field Manager, Las Vegas Field Office		November 9, 2010
--	---	------------------

**U.S. Department of the Interior
Bureau of Land Management**

Decision Record

DOI-BLM-NV-S010-2010-0018-EA

November 9, 2010

Castle Mountain Wind Energy Amendment 1

APPLICANT

Oak Creek Energy Systems, Inc.

GENERAL LOCATION

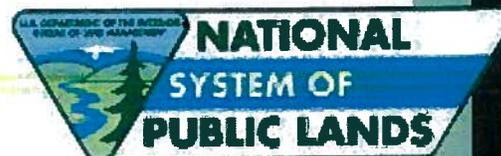
Near Searchlight, Nevada

BLM Case File Serial Number

N-82729/01

PREPARING OFFICE

**U.S. Department of the Interior
Bureau of Land Management
Southern Nevada District Office
Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5172
702-515-5155**



**Decision Record : DOI-BLM-
NV-S010-2010-0018-EA**

Table of Contents

1. Castle Mountain Wind Energy Amendment 1	1
1.1. Compliance	1
1.2. Selected Action	1
1.3. Compliance with NEPA:	2
1.4. Public Involvement:	2
1.5. Rationale:	2
1.6. Appeal or Protest Opportunities:	2
1.7. Authorizing Official:	3
1.8. Contact Person	3

Chapter 1. Castle Mountain Wind Energy Amendment 1

1.1. Compliance

The proposed action with additional mitigation is in conformance with the Las Vegas Resource Management Plan (RMP), Record of Decision, (ROD), signed October 5, 1998. This action is consistent with the terms and conditions and decisions of the approved plan in the following Land Use Plan decision (s):

Right-of-Way Management Objective

RW-1. Meet public demand and reduce impacts to sensitive resources by providing an orderly system of development for transportation, including legal access to private inholdings, communications, flood control, major utility transmission lines, and related facilities.
Management Direction

RW-1-h. All public lands within the planning area, except as stated in RW-1-c through RW-1-g, are available at the discretion of the agency for rights-of-way under the authority of the Federal Lands Policy Management Act.

The proposed action with additional mitigation measures is in conformance with the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States dated December 12, 2005; The Wind Energy Development Policy IM-2009-043 dated December 19, 2008.

- (1.) Threatened or Endangered Species; Endangered Species Act of 1983, as amended (16 USC 1531); Section 6
- (2.) Visual Resource Management; BLM Handbook H 8410-1, Visual Resource Inventory (BLM 1986a)
- (3.) Vegetation and Forestry; Healthy Forests Restoration Act of 2003 (P.L. 108-148)

1.2. Selected Action

The proposed action with additional mitigation measures would keep the anemometer tower height at 60-meters (197 feet) as addressed in 2007-249 Environmental Assessment (EA), for the approved 9 met towers except for ALT NV-07 the tower size would increase to a height of 120-meters (394 feet). Additionally, two (10' X 10') SODAR units would be added to the footprint, and transported to site and fenced. There are four remaining met tower locations that have not been constructed, including the proposed action met tower locations of ALT NV-06 and ALT NV-07. If this alternative is selected, this would allow for eight (8) met towers at 60-meters height and one (1) met tower at 120-meters height and two (2) sodar units for the entire project area.

The decision will become full force and effect upon signature by the Authorized Officer.

1.3. Compliance with NEPA:

This project was originally analyzed in National Environmental Policy Act (NEPA) document EA 2007-249 and found to have no significant impacts, thus an EIS was not required. The proposed amendment to this project which this decision record addresses was analyzed in NEPA document DOI-BLM-NV-S010-2010-0018-EA and found to have no significant impacts, thus an EIS is not required.

1.4. Public Involvement:

Public input was solicited on the proposed action through the NEPA planning process. The Bureau of Land Management (BLM) posted a copy of the EA in the NEPA Register. The EA was made available to the public to review for 15 calendar days starting October 19, 2010 through November 3, 2010.

The BLM received six (6) comments on the proposed project. The comments were from the general public and the proponent. The BLM received one comment with no issues from the State of Nevada, Department of Administration, State Clearinghouse. One comment was in favor of the proposed project to help add employment to the region. One comment received from OCES (the proponent) was in favor of the proposed project because OCES is working in partnership with Desert Research Institute (DRI) who has a grant from National Renewable Energy Laboratory (NREL) to capture unique research data. The other three comments were against the proposed project due to scenic value issues, flashing lights, and the potential for wind energy turbines being installed at this location.

1.5. Rationale:

Based on the analysis of potential environmental impacts contained in the attached EA, and considering the significance criteria in 40 CFR 1508.27, I have determined that the proposed action with additional mitigation measures will not have a significant effect on the human environment. An environmental impact statement is therefore not required.

The proposed action was selected based on the level of mitigation. The additional mitigation that will be required for the BLM authorization of this project is the following: The 120-meter tower must use an Audio/Visual Warning System (AVWS) approved by the Federal Aviation Administration (FAA) in order to keep flashing lights in a passive mode until aircraft are detected within the range of the automated radar detection system.

1.6. Appeal or Protest Opportunities:

Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations in 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. Within 30 days after you appeal, you are required to provide a Statement of Reasons to the Board of Land Appeals and a copy to the Regional Solicitor's office listed in Item 3 on the form. The appellant has the burden of showing that the decision appealed from is in error.

If you appeal this decision, please provide this office with a copy of your Statement of Reasons.

This decision, under the provisions of 43 CFR 2800 constitutes a final decision and remains in full force and effect during an appeal unless the Secretary rules otherwise. Refer to 43 CFR 2804 for the requirements for filing a petition for stay.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to IBLA and to the appropriate office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

1.7. Authorizing Official:



Robert B. Ross Jr.
Field Manager
Las Vegas Field Office

November 9, 2010

1.8. Contact Person

For additional information concerning this Finding, contact.

Brenda Wilhight, Realty Specialist
Southern Nevada District Office
Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5172
702-515-5155