

**WIND ENERGY PROTOCOL
BETWEEN
THE DEPARTMENT OF DEFENSE
AND
THE BUREAU OF LAND MANAGEMENT
CONCERNING CONSULTATION ON DEVELOPMENT
OF
WIND ENERGY PROJECTS AND TURBINE SITING ON PUBLIC LANDS
ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT
TO
ENSURE COMPATIBILITY WITH MILITARY ACTIVITIES**

July 2008

I. PURPOSE

With the signing of the Wind Energy Protocol (Protocol), the Department of Defense (DOD) and the Department of the Interior, Bureau of Land Management (BLM), hereinafter referred to as the "Agencies," commit to work together to facilitate compatible land use through cooperative planning of wind energy projects on BLM-administered lands. Public lands withdrawn for military uses are outside the scope of the Protocol. Specific statutory and regulatory processes govern any request to use withdrawn lands for purposes other than military purposes. The purpose of the Protocol is to improve the communication and coordination process between BLM and DOD in the review of proposed wind energy right-of-way (ROW) applications on BLM-administered public lands. The Protocol will facilitate the timely processing of wind energy right-of-way applications and provide for the appropriate use of public lands for the development of wind energy resources. The ultimate goal of the Protocol is to promote long term wind energy development on BLM-administered public lands in a manner compatible with military activities.

Specifically, the Protocol:

1. Establishes a process for DOD's review of and comment on proposed wind energy applications on BLM-administered public lands.
2. Provides a process to develop mitigation measures to minimize impacts on military activities and to increase opportunities for wind energy developers to utilize high value wind energy sites on public lands in the Western United States.

The Protocol recognizes that comments provided by DOD on any proposed wind energy project on public lands are recommendations and that the BLM has the ultimate responsibility for the allocation of land uses on public lands and retains the decision authority regarding applications for the use of the public lands. However, BLM fully acknowledges DOD's vital national security mission and commits to work closely with

DOD to ensure that safe and effective military activities are not adversely impacted by wind energy development on BLM-administered public lands.

II. BACKGROUND

The President's National Energy Policy and Section 211 of the Energy Policy Act of 2005 (P.L.109-58) encourages the development of renewable energy resources, including wind energy, as part of an overall strategy to develop a diverse portfolio of domestic energy supplies for the future.

The BLM Wind Energy Policy dated August 24, 2006, stresses the importance of timely and consistent processing of wind energy right-of-way applications by BLM Field Offices. The BLM currently administers authorizations for both wind energy development and site testing on public lands in each of the eleven western States. BLM continues to process additional applications for development and site testing.

DOD uses an extensive system of military airspace and land assets in order to equip and train combat-ready forces as required by statute. DOD also operates radar systems designed to detect threats to our national security. Many of these activities and systems are located on, near, or take place over, BLM-administered public lands.

III. AGENCY RESPONSIBILITIES

General:

The Agencies agree to work together and with other entities as appropriate to ensure timely decisions are made and Agency mission and responsibilities are met. Each Agency agrees to:

1. **Communicate Informally and Coordinate Early.** The Agencies commit to conduct timely review of wind energy right-of-way applications.
2. **Share Information.** To the extent permitted by law, regulation and national security, the Agencies will work together to develop mapping information of such scale and detail that BLM Field Office staff can analyze ROW applications for wind energy site testing or development and make a determination whether consultation procedures should be initiated between the Agencies.
3. **Consultation.** All wind energy ROW applications submitted to DOD for consultation, regardless of whether they are for site testing or development facilities, should be reviewed as though the ROW will eventually be authorized and may lead to the future construction of wind turbines on the public lands.

Bureau of Land Management:

1. The BLM will initiate consultation with DOD whenever BLM receives a wind energy ROW application for a project to be sited on public lands which DOD has previously identified as sensitive from a military standpoint.
2. If a proposed wind energy application does fall into an area identified as critical to DOD, the BLM Field Office will contact the appropriate DOD regional point of contact (in many, but not all instances, the Regional Environmental Coordination Office) within 30 days from receipt of the ROW application and request a wind energy project consultation. The BLM Field Office and/or the ROW applicant will provide the DOD regional point of contact with the information necessary to determine whether the proposed wind energy project has the potential to conflict with DOD operations. The BLM Field Office will continue processing the ROW application during the DOD consultation process.
3. If the DOD region evaluation indicates that the proposed wind energy project would have adverse effects on military activities and cannot be mitigated, the following steps will be taken by the BLM:
 - Within 15 calendar days from the receipt of the DOD region evaluation, the BLM Field Office will submit to the BLM Washington Office (WO-350), through the BLM State Office, the DOD region evaluation package.
 - BLM WO-350 will contact DOD headquarters and request a review of the DOD region evaluation. DOD headquarters will respond to the WO-350 within 30 calendar days outlining their concurrence with the DOD region recommendation or an alternative to the proposed action.
 - If the applicant decides not to modify or withdraw their project, the BLM Field Office in consultation with WO-350 will complete the processing of the application and make a final decision.
4. If the BLM Field Office denies the application based upon the DOD evaluation, the decision can be appealed to the Interior Board of Land Appeals (IBLA) by the ROW applicant. If the BLM Field Office makes the decision to issue the ROW without DOD concurrence, DOD can appeal the decision to IBLA as well.
5. If DOD opposes the proposed final decision to grant a wind energy ROW, the BLM Field Office will stipulate in the ROW grant offer that no construction will begin on the ROW until BLM issues a written "Notice to Proceed".

Department of Defense:

1. The DOD will provide to WO-350 or its designee, GIS mapping data to assist in the review of wind energy project applications on BLM-administered public lands.
2. The DOD will provide to WO-350 the contact information for each DoD region and the appropriate contacts at the DOD headquarters level for final determinations to DOD region evaluations.
3. The DOD region will promptly acknowledge the receipt of a BLM Field Office request for consultation and will formally respond within 45 calendar days. The DOD region response will be either: (1) a completed evaluation of potential impacts on military activities, or (2) a request for an additional 45 days to complete the evaluation. The completed evaluation or the request for additional time will be provided in writing to the BLM Field Office.
4. The DOD region evaluation will identify whether the proposed project will: (a) have no significant impacts on military activities and no further consultation is required, (b) have an adverse effect on military activities that can be mitigated and what the mitigation is, or (c) have an adverse effect on military activities that cannot be mitigated and DOD recommends no wind energy development on the public lands within the ROW application area.

Mapping Protocol

1. The Agencies will work together to develop GIS maps for each of the 11 western States showing BLM land status and resource information, military flight path, training routes and other DOD information necessary for determining where consultation will be required.
2. The GIS maps will show only those public lands that could potentially compromise military operations if wind farms were constructed. Consultation will be required for all public lands within the mapping polygons that identify the areas of military concern. All other public lands will not require DOD consultation.

IV. SCOPE OF THE PROTOCOL

1. Nothing in the Protocol obligates the participating Agencies to expend appropriations or enter into any contract or other obligation.
2. The Protocol may be modified or amended upon written request of any party hereto and the subsequent written concurrence of all parties.

3. The Protocol is to be construed in a manner consistent with all existing laws and regulations.
4. The Protocol neither expands nor is in derogation of those powers and authorities vested in the parties by applicable law, statutes or regulations.
5. The parties intend to fully carry out the terms of the Protocol. In addition, the Protocol does not limit the ability of any of the participating Agencies to review and respond to applications submitted by any organization or member of the public.
6. The Protocol is strictly for internal management purposes of the parties. It is not a contract for acquisition of supplies or services, is not legally enforceable, and shall not be construed to create any legal obligation on the part of any of the parties, or any private right or cause of action for or by any person or entity.
7. Participation in the Protocol may be terminated sixty (60) days after providing written notice of such termination to the other party.
8. The Agencies will conduct an initial one-year review of the Protocol with subsequent reviews every three years.

V. SECURITY AND CLASSIFICATION

All applicable security classifications and guidelines shall apply. Before any classified work under this project is initiated, the Agencies' representatives will establish appropriate security requirements/procedures.

Any disclosure of information to the public subject to the Freedom of Information Act, 5 U.S.C. § 552, regarding work undertaken pursuant to this MOU shall be coordinated between the Agencies.

VI. PRINCIPAL CONTACTS

FOR BLM:

Program Manager
Rick Stamm
1849 C St. NW (MS 1000 LS)
Washington, DC 20240
(202) 452-5185

FOR DOD:

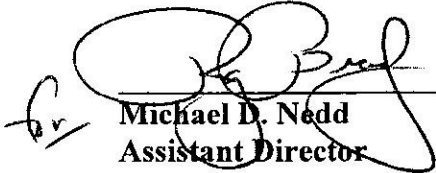
ODUSD(I&E)
William Van Houten
1225 Jefferson Davis Highway
Arlington, VA
(703) 604-1874

VII. DATE EFFECTIVE

The Protocol shall take effect on the date of the last approving signature.

VIII. SIGNATORIES

FOR BLM:




Michael D. Nedd
Assistant Director
Minerals and Realty Management
Bureau of Land Management

JUL 28 2008

Date

FOR DOD:



Alex A. Beehler
Assistant Deputy Under Secretary
Environment, Safety and Occupational Health
Department of Defense



Date