

Record of Decision

for the Condon Wind Project

Power Purchase and Transmission Service Agreements

1. Decision

As Acting Administrator and Chief Executive Officer of the Bonneville Power Administration (BPA), I have decided to authorize entry into:

- a long-term power purchase agreement (PPA) with Condon Wind Power, LLC, a subsidiary of SeaWest WindPower, Inc. (SeaWest) to acquire the scheduled electrical output (up to 49.8 megawatts (MW)) at the interconnection point on BPA's transmission system from the Condon Wind Project (Project); and
- construction and generation interconnection agreements with SeaWest to provide the electrical connection for and integration of the Project.

In reaching this decision, I have considered the potential environmental impacts addressed in BPA's Condon Wind Project Final Environmental Impact Statement (Condon EIS) (DOE/EIS-0321, August 2001), which evaluated the potential environmental impacts of the Project and a No Action Alternative. In addition, I have considered the Supplement Analysis (DOE/EIS-0321/SA-01) prepared by BPA to examine new information and a change in circumstances that may require replacing the transformer in the DeMoss substation, adding a 115-kilovolt (kV) power circuit breaker, and expanding the fenced substation area. The Supplement Analysis is available upon request. BPA will distribute this Record of Decision (ROD) to all known interested and affected persons, Tribes, and agencies and will publish a notice of its availability in the Federal Register.

1.1 For More Information

Contact Sarah T. Branum, Bonneville Power Administration (KEC-4), P.O. Box 3621, Portland, Oregon, 97208-3621; phone number 503-230-5115; email stbranum@bpa.gov. For copies of this ROD, the Condon EIS, or the Supplement Analysis, please call BPA's toll-free document request line at 1-800-622-4520. This ROD and other Project documents are also available on the internet at www.efw.bpa.gov.

1.2 Decision Factors

The following identifies and discusses the relevant factors that were considered in making this decision.

Over the last few years, electrical usage by BPA customers (i.e. load) has increased. In addition, BPA's existing energy resource base, which consists primarily of Federal hydroelectric power projects and some non-federally-owned resources, is facing increasing constraints as operations are being altered to incorporate long-term goals of salmon mitigation and recovery in the Columbia River Basin. Furthermore, BPA has a legal obligation to serve its customers' energy requests (i.e. firm load) over the next 5-10 year contract period and beyond. Therefore, it is reasonable on a resource planning basis to acquire the output from resources that will contribute to BPA's long-term power supply and help to meet its firm load obligations in the region.

Section 6 of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. § 839 et seq., grants the Administrator authority to acquire resources to meet firm contractual load obligations whether through short-term or long-term resource acquisition. Section 6 provides further that the Administrator may acquire resources that are consistent with the Northwest Power Planning Council's plan or, if no plan is in effect, resources that are consistent with sections 4(e)(1) and (2) of the Northwest Power Act. Acquisition of the proposed Project is consistent with these statutory provisions and is consistent with BPA's resource strategy, which is to acquire a diverse resource portfolio, particularly renewable resources.

In the face of regional growth in electrical loads and increasing constraints on the existing energy resource base, BPA needs to acquire resources that will contribute to diversification of the long-term power supply in the region. The purposes of acquiring a diverse resource portfolio include:

- protecting BPA and its customers against risk by diversifying energy supplies;
- ensuring consistency with BPA's responsibility under the Northwest Power Act to encourage the development of renewable energy resources;
- meeting customer demand for energy from renewable energy resources, thereby assuring consistency with BPA's Business Plan EIS (DOE/EIS-0183, June 1995) and Business Plan ROD;
- ensuring consistency with the resource acquisition strategy of BPA's Resource Programs EIS (DOE/EIS-0162, February 1993) and ROD; and
- meeting the objective in the January 2000 Strategic Plan of BPA's Power Business Line to acquire at least 150 average megawatts (aMW) of new renewable resources by the end of fiscal year 2006 in order to meet customer demand for new renewable resources.

The alternatives in the Condon EIS were evaluated against the need and purposes above. Another decision factor considered was the potential environmental impacts associated with the proposed Project and the No Action alternative, as described in the Condon EIS and Supplement Analysis.

2. Background

In October 1999, SeaWest submitted an unsolicited proposal to BPA for a wind project located near Condon, Oregon, to be constructed, owned, and operated by SeaWest. As proposed by SeaWest, the Project is eligible to receive a Federal Production Tax Credit (PTC) for 10 years if commercial operation is achieved no later than December 31, 2001. Because the PTC has such a large impact on the cost of power (the PTC is currently worth about 1.7 cents per kilowatt-hour and escalates with inflation), SeaWest and BPA decided to proceed with an EIS for the Project while simultaneously collecting wind data at the site. BPA and SeaWest executed a Predevelopment Agreement on July 17, 2000, and SeaWest agreed to propose a purchase price range within 180 days. The initial power cost estimate proposed by SeaWest was 4 to 5 cents per kilowatt-hour and was based on wind data collected at existing meteorological stations located several miles from the Project site.

In December 2000, after analysis of the wind data collected at the Project site indicated the wind turbines would produce less output than expected, SeaWest proposed a purchase price range that was substantially higher than anticipated. In January 2001, SeaWest and BPA executed an amendment to the Predevelopment Agreement in which the parties agreed to explore restructuring the Project in ways that would reduce the power price.

In February 2001, SeaWest filed an application to interconnect a 25–50 MW Project with the Federal Columbia River Transmission System (FCRTS) at a point on BPA’s DeMoss–Fossil 69-kV transmission line.

SeaWest then came back to BPA and resubmitted pricing for the Project. Based on the new pricing and other factors, BPA decided in March 2001 to continue predevelopment activities (like the EIS) at Condon. The other factors considered were:

- The need to acquire resources to meet BPA’s firm load obligations. At the time, BPA faced a 3000-aMW deficit in the 5-year rate period beginning on October 1, 2001;
- Prices in the power market were extremely high and were expected to remain so;
- BPA was reviewing other wind projects, the acquisition status of which was uncertain;
- It was uncertain whether Congress would extend the PTC deadline beyond December 31, 2001; and
- BPA was seeking to add to its green power portfolio in order to meet current and expected demand.

In May 2001, SeaWest and BPA executed an amendment to the Predevelopment Agreement. This amendment included the revised pricing and a provision for improved pricing if wind data collected after the Project commences operation supports an upward estimate of power production.

Finally, BPA would like to obtain wind and output data from an operating wind plant near areas where future wind plants are likely to be developed. The Condon Project will provide BPA such information. This data is important and will assist BPA in assessing the impacts on the hydropower system of integrating large amounts of wind power in the future.

3. Project Description

The Project site is located on both sides of Highway 206 (ORE206), approximately 5 miles northwest of the town of Condon in Gilliam County, Oregon. The Project facilities would occupy a permanent footprint of approximately 21 acres for the 24.6-MW first phase and an additional 17 acres for the second phase of 25.2 MW (38 acres total). The Project design locates the turbines on the relatively flat (and predominately cultivated) tops of plateaus to take advantage of the best wind resources while minimizing potential environmental impacts.

The Project site consists of privately owned farmland that is used for non-irrigated agriculture (primarily winter wheat and barley), cattle grazing, or land that is in the Conservation Reserve Program. The General Plan for Gilliam County, and the implementing zoning regulations, designate the Project site as “Exclusive Farm Use.” Facilities for generating electricity from wind energy can be permitted in Exclusive Farm Use zones through a conditional land use permit. Such a permit has been issued to SeaWest by Gilliam County.

The Project would use 600-kilowatt (kW) wind turbine generators to convert wind energy to electricity that would be interconnected and integrated into the regional grid at the existing BPA DeMoss-Fossil 69-kV transmission line. The first phase of the Project would use 41 tower-mounted wind turbines to yield a capacity of approximately 24.6 MW; a second phase would use 42 wind turbines to yield a capacity of approximately 25.2 MW, for a total of 49.8 MW. Other major components of the Project include tower foundations, small pad-mounted transformers, an operation and maintenance building, power collection and communication cables, access roads, meteorological towers on foundations, and a substation. During construction, there will also be temporary equipment storage and construction staging areas.

The first phase would be constructed in late 2001; the second phase would be constructed during spring/summer 2002 or later.

The interconnection of the Project with the FCRTS will be pursuant to BPA's generation interconnection procedures. Integration of other new resources, in addition to the Condon Project, may require an upgrade to the DeMoss Substation. The upgrade would entail replacing the 115/69-kV 25-megavolt amp transformer with a larger capacity 115/69-kV transformer, adding a 115-kV power circuit breaker, and expanding the fenced area of the substation about 50 feet by 100 feet. All interconnection and integration construction activities could be done within the existing substation property and transmission line right-of-way. Transmission service to deliver power from the Project will be provided consistent with the procedures and terms of BPA's Open Access Transmission Tariff and associated transmission, ancillary, and control area services rates.

4. Environmental Review Process

4.1 Overview

BPA's Proposed Action is to execute a power purchase agreement with SeaWest for up to 49.8 MW of electrical energy from the proposed Project and interconnect and integrate the Project with the FCRTS.

BPA's Resource Programs EIS (RP EIS, DOE/EIS-0162, February 1993) analyzes environmental trade-offs among generic types of power generation and the cumulative effects of adding these sources to the existing system. As a renewable resource, the Project would implement one element of BPA's chosen Emphasize Conservation Alternative, and would be consistent with BPA's Resource Programs ROD. Therefore, the EIS was tiered to the RP EIS and focuses on the site-specific analyses of the proposed Project.

BPA's policy-level Business Plan EIS (BP EIS DOE/EIS-0183, June 1995) addresses BPA's need for a business strategy to participate fully in the changing energy market, updates the analyses in the RP EIS, and confirms the importance of renewable resources in the regional energy portfolio. BPA's Business Plan ROD documents BPA's decision to be market-driven in its participation in the electric utility marketplace. Acquisition of renewable resources such as the proposed Project is consistent with the decision to be market-driven. The Condon EIS is tiered to the BP EIS and ROD.

On July 5, 2000, BPA published a Notice of Intent to prepare an EIS and to conduct public scoping meetings for the proposed action. Issues raised during the public scoping process included primarily potential socioeconomic, wildlife, and land use impacts, as well as questions about Project design. The Draft EIS was completed by BPA and made available for review and comment in May 2001. A 45-day public review period was held for the Draft EIS, and a public meeting for the Draft EIS was held on June 19, 2001. BPA completed the Final EIS for the proposed action in August 2001.

After completion of the Condon Final EIS, new information and changed circumstances affecting the Proposed Action arose. A Supplement Analysis was prepared to address these changes. After the EIS was completed, BPA confirmed that integration of other new resources, in addition to the Condon Project, may require upgrading a transformer, adding a power circuit breaker, and expanding the fenced area of BPA's existing DeMoss Substation. BPA's generation interconnection study and construction planning indicated that the upgrades could be done within the existing substation property and transmission line right-of-way. The upgrade would not disturb any previously undisturbed areas and would not have any impacts beyond those already examined in the EIS. Thus, this new information and changed circumstances do not represent a substantial change to the proposal or significant new circumstances or information under the National Environmental Policy Act (NEPA).

4.2 Alternatives Considered

The Condon EIS evaluates the potential environmental impacts of the Project as proposed by SeaWest and a No Action Alternative. Because BPA is responding to a specific application from SeaWest to sell power to BPA, no other sites or projects were evaluated as alternatives in the EIS.

BPA's preferred alternative, and the environmentally preferred alternative, is the Proposed Action.

4.3 Summary of Environmental Impacts

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. §§ 1531-1544), requires Federal agencies to ensure their actions do not jeopardize the continued existence of threatened or endangered species. BPA submitted a biological assessment to the U.S. Fish and Wildlife Service on July 11, 2001, with a finding that activities in the Condon Wind Project area may affect but are not likely to adversely affect the bald eagle (*Haliaeetus leucocephalus*) and its habitat. A letter of concurrence with the findings in the biological assessment was received on October 3, 2001. No other ESA species, including anadromous fish, are expected to be impacted.

Clean Water Act – 33 U.S.C. §1251: No impact to streams, stream courses or wetlands would occur so consultation and permitting is not required.

Clean Air Act – 42 U.S.C. §7401: Wind generation is non-polluting, so the Project is in compliance with the Clean Air Act.

National Historic Preservation Act – 16 U.S.C. §470 : Surveys were conducted for cultural resources during the environmental analysis. Several cultural or historic sites were identified and inventoried. All will be avoided during Project construction and operation. If more sites are detected later, they will be protected until a qualified specialist could determine what protective actions are necessary.

In addition, BPA operates under its own Tribal Policy, signed April 30, 1996. Pursuant to this policy, BPA is committed to consulting with Tribal governments to ensure that Tribal rights and concerns are considered prior to BPA taking actions, making decisions, or implementing programs that may affect Tribal resources. In compliance with this policy, BPA's project manager met with representatives of the Confederated Tribes of the Umatilla Indian Reservation and the Confederated Tribes of the Warm Springs Reservation to inform them about the proposed Project and to determine whether cultural resources would be adversely affected. Neither Tribe expressed concerns about the proposed Project, and both Tribes declined to participate in cultural resource surveys of the Project site.

5. Mitigation

The Council on Environmental Quality Regulations for Implementing NEPA (40 CFR § 1505.2(c)) require a ROD to “state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not.”

There are potential adverse impacts to environmental resources from the Project and its interconnection to the FCRTS. The Project will alter the visual landscape and increase bird mortality by 50-230 birds per year. Beneficial Project impacts include bringing jobs, tax revenue, and income to landowners in the area. Through this ROD, all practicable means to avoid and minimize environmental harm from the Project have been adopted. BPA will require that the Project meet all Federal, State, and local requirements, including conditions stipulated by Gilliam County in its Conditional Use Permit. A mitigation action plan, including all mitigations discussed in the Condon EIS, has been developed and agreed to by SeaWest and BPA, and is attached.

I am making this decision to authorize proceeding with the acquisition and integration of power from this Project after consultation with and recommendation from BPA's Power Business Line and Transmission Business Line.

Issued in Portland, Oregon.

/s/ Stephen J. Wright
Stephen J. Wright
Acting Administrator and
Chief Executive Officer

November 6, 2001
Date

Attachment:
Mitigation Action Plan



MEMORANDUM

TO: George Darr
FROM: Jessie Audette, Assistant Vice President
DATE: October 15, 2001
SUBJECT: Condon EIS mitigation measures
C:

Below are the actions we have taken or will take to comply with the EIS mitigation measures. We suggest that follow-up reports be presented following the first and second phases of construction, and from that point on, we will present reports on a quarterly basis.

Vegetation Mitigation Measures

- *Construction corridors would be marked in shrub-steppe plant communities in the vicinity of construction areas to minimize disturbance to this vegetation type*

The Project construction crews are utilizing the EIS map showing the location of shrub-steppe plant communities and are marking construction corridors in these areas in order to minimize disturbance to this vegetation type.

- *To minimize opportunities for weed infestations, exposed soils would be reseeded with a seed mix approved by the Natural Resources Conservation Service and/or reestablished as cropland after construction is complete.*

SeaWest has consulted with the Agriculture Department and the Natural Resource Conservation Service and this agency will propose two seed mixes to be used on CRP lands and in shrub-steppe vegetation areas, respectively. Exposed farmland soils will be reseeded with seeds appropriate to regenerate the surrounding crop during the next planting season. CRP and shrub-steppe reseeded will be coordinated so as not to interfere with the Weed Management Control and Response Plan (referenced below).

- *Construction equipment would be limited to construction corridors and designated tower and building construction and staging areas.*

Construction personnel are currently observing this requirement.

- *Due to the rarity of trees in the area, no trees would be removed. In the unlikely event that tree removal is unavoidable, new trees would be planted at a ratio of five trees for every tree lost that has a diameter greater than 4 inches.*

There are no trees in the Project area.

- *SeaWest or its successor would prepare and implement a Weed Management Control and Response Plan, to be approved by the Gilliam County Weed Control Board. Weed management would include monitoring site facilities annually for infestation by noxious weeds. Weeds would be controlled in*

consultation with local landowners. Infestations would be addressed within 2 weeks and reported to appropriate staff at the Gilliam County Weed Control Board.

SeaWest has consulted with the Gilliam County Weed Control Board and has received its recommendations for a Weed Management Control and Response Plan. This Plan has been reviewed by construction and operations personnel and there are no obstacles to compliance.

- *All project vehicles would be equipped with basic fire-fighting equipment, including extinguishers, shovels, and other equipment deemed appropriate (such as tools for fighting grass fires).*

This requirement is already being observed by construction personnel, and will be maintained by operations & maintenance personnel.

- *Electrical power poles would be placed to minimize impacts on shrub-steppe vegetation and any exposed soil would be revegetated after poles are installed.*

There will be no electrical power poles on-site except for an overhead line between the Project substation and the interconnection to the Condon-DeMoss transmission line. This area is not a shrub-steppe area, however, it is a CRP area. Consequently, exposed soil in this area will be revegetated with the appropriate CRP “seed mix” after electrical power poles are installed.

- *Revegetation guidelines would be prepared and implemented for areas that would be disturbed during construction, with guidelines as to whether native or non-native seed mixes would be used.*

Please see response regarding SeaWest’s consultation with the Natural Resource Conservation Service above.

- *To minimize establishment of noxious weeds, construction crews would limit transport of seeds to agricultural lands from roadside areas by complying with the Weed Management Control and Response Plan.*

Construction crews are prepared to observe this requirement once provided with the Weed Management Control and Response Plan. Operations and maintenance personnel will maintain compliance with this requirement.

Wildlife Mitigation Measures

- *To prevent bald eagles from being attracted to the project site, project personnel and avian monitoring crews would look for large carrion (dead deer or cattle) on the project site between November 15 and March 31 of any given year. If found, large carrion would be relocated from the project site within 24 hours to similar habitats more than 2 miles from the closest turbine. Sites for such relocations would be identified by BPA.*

SeaWest is working with Gilliam County to identify appropriate sites for disposal of large carrion. Once the sites are identified construction and operations personnel will be notified.

- *Due to inherent uncertainty in avian and bat mortality associated with the proposed project, and the need to further scientific understanding of avian and bat mortality associated with wind energy generation, the following monitoring standards would be implemented:*

1. *SeaWest or its successor will monitor avian and bat mortality for the first year of the project’s life, and submit a quarterly report to BPA, ODFW, and USFWS. The monitoring will follow standard protocols that have been established at other wind resource projects.*

SeaWest has selected a consultant to carry out a study monitoring monitor avian and bat mortality for the first year of the Project's life, and the study scope will include the submission of a quarterly report to BPA, ODFW, and USFWS. The consultant selected to carry out the study will be utilizing a standard protocol that has been established for other wind resource projects.

2. *SeaWest staff (or its successor) will maintain a record of all wildlife injury and mortality that is observed on the project site. This record will include a photographic record of injury and mortality using a standard protocol approved by ODFW and the USFWS.*

SeaWest routinely carries out this procedure at its windfarms in California and Wyoming, utilizing a procedure and reporting form developed in conjunction with the US Fish & Wildlife Service. Construction and operations personnel will be instructed to comply with this measure.

3. *SeaWest or its successor will report, by telephone, injuries or mortalities of species listed in Table 3.6-1 (and any species listed in the future) to the designated BPA, ODFW, and/or USFWS representatives within 24 hours following observation.*

SeaWest routinely carries out this procedure at its windfarms in California and Wyoming, utilizing a procedure developed in conjunction with the US Fish & Wildlife Service. Construction and operations personnel will comply with this measure, maintaining contact information for the designated BPA, ODFW, and/or USFWS representatives close at hand.

Cultural Resources Mitigation Measures

- *If archaeological or historic materials are discovered during construction, further surface-disturbing activities at the site would cease, and BPA, State Historic Preservation Officer, and Tribal personnel would be notified to ensure proper handling of the discovery.*

This measure will be observed by construction personnel.

Visual Resource Mitigation Measures

- *Site all construction staging and storage areas away from locations that would be clearly visible from ORE206 to the extent practical.*

All construction staging and storage areas will be visible from ORE206 because this highway runs alongside the Project site, however efforts will be made to minimize motorists' attention to these areas.

- *Provide a clean-looking facility by storing equipment and supplies out of sight, if practical; by promptly removing any damaged or unusable equipment; and by promptly repairing or decommissioning (and removing) turbines that are not functioning or not being used.*

This measure will be observed by construction and operations personnel.

- *Keep turbines and towers clean and touch up paint when needed.*

This measure will be observed by construction and operations personnel.

- *Coordinate with Oregon and federal recreational facilities and areas, as well as the Oregon Department of Transportation, to determine the feasibility and safety of providing signs directing sightseers along ORE206 to public viewing places that could provide safe viewing areas of the project site.*

SeaWest is now actively working with the Department of Transportation and other parties to establish an area where motorists could pull off to the side of the road in order to observe the Project.

Transportation Mitigation Measures

- *Coordinate routing of construction traffic with Gilliam County Public Works Department.*

This is currently in practice.

- *Employ traffic control flaggers and signs warning of construction activity and merging traffic as required.*

This is currently in practice. Flaggers have not been necessary, however signs are in use.

- *Repair any damages to state and/or county roads caused by the Project.*

Construction personnel are alert to any possible damage to roads. This is also a condition of the Conditional Use Permit.

Noise Mitigation Measures

- *All equipment would have sound-control devices no less effective than those provided on the original equipment. No equipment would have an unmuffled exhaust.*

Construction personnel have been notified of this mitigation measure.

- *No noise-generating construction activity would be conducted within 1,000 feet of an occupied residence between the hours of 10 p.m. and 7 a.m.*

The existing Conditional Use Permit designates the hours of 10 pm to 6 am; while construction personnel have been notified of this mitigation measure, it has been requested that a single requirement exist for both the Conditional Use Permit and the Mitigation Measures, i.e., between 10 pm and 6 am.

- *In the event of adjacent landowner complaints, and as directed by the county, the contractor would implement appropriate noise-reducing measures including, but not limited to, changing the location of stationary construction equipment, shutting off idling equipment, rescheduling construction activity, and notifying adjacent residents in advance of construction work.*

Construction personnel have been notified of this mitigation measure.