

## Variance Request Form



Ocotillo Express Wind LLC  
 Pier 1 Bay 3  
 San Francisco CA 94111  
 415-283-4000

Variance:   032    
 Request No.:   Rev 0    
 Date Submit:   10/18/2012    
 Date Approval Needed:   10/23/2012    
 Date Agency Received: \_\_\_\_\_  
 Agency Approval Reference No.: \_\_\_\_\_

Request Prepared by: Joan Inlow / James Dermody

Spread/ Location: T165, 167

(Milepost): all

Net acreage affected: 0.03 acres

Alignment Sheet/Sta. All

No.:

Tract No:

Landowner: BLM

In or within 50 feet of a wetland:    Yes    No

Within 50 feet of a water body:    Yes    No

Current Land Use/ Vegetative Cover: undeveloped/desert vegetation

Nearby Features (Water body, T&E Habitat, Wetland, Noxious Weed): CDFG Habitat

Area, Residence, Cultural Resource Site (distance, etc.):

Variance Level:    Level 1    Level 2    Level 3   **(To Be Assigned by Designated Representative)**

Variance From:    Permit    Plan/Procedure    Specification    Drawing    Mitigation Measure    Other:

**Detailed Description of Variance:**                      Attachments?    Yes     No                       Photos?    Yes     No

This variance request is to provide details of the road and collection corridor to turbine 167 and the removal of the road and collection corridor to turbine 165.

Turbine 167 was changed from an alternate site to a primary site as documented in the BLM Notice of Substitution of Alternate Wind Turbine Locations, dated October 9, 2012. Turbine 167 was changed from an alternate site to a primary site in response to ongoing cultural investigations required as part of the construction monitoring activities for the project. Turbine 165 was changed to an alternate site as documented in the same notice.

This variance describes the net acreage affected, road and collection corridor disturbance areas and the associated avoidance of environmentally sensitive resources for these turbine substitutions.

**Variance Justification:** The primary and alternate turbine locations described in this variance are positioned within areas previously surveyed during the environmental review completed for the Final EIS/EIR.

Section 1.3 of the Record of Decision describes the existence of 5 alternative turbines to the 112 turbine site plan. The BLM has determined that these minor changes (i.e. swapping turbine locations) to the Refined Project's turbine configuration are within the range of alternatives analyzed in the EIS/EIR and that no additional NEPA analysis is required. Under this premise, the OWEF requests modification of the identified alternates to be consistent with new information gained since the project began construction.


The variance level is 2 because the change does not affect new areas outside of the NEPA approved work areas from the FEIS and the retention and use of alternative turbine locations in order to maintain a 112 turbine project size is clearly described in the ROD and ROW documents.

Mitigation measures incorporated as part of the Final EIS/EIR require efforts to be completed by OE LLC in order to minimize environmental impacts. Implementation of these mitigation measures as outlined above has resulted in the proposed Variance 032. The proposed construction of Turbine 167 would be conducted in accordance with the same impact avoidance, minimization, monitoring and mitigation measures that apply to all other project impact areas. Such measures include those specified in BLM's ROD, and approved plans and permits for specific types of activities.

**For (Company Name) Use Only**


Additional Surveys Required	Surveyed Corridor Description	Additional Surveys Completed
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Cultural Survey <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
T&E(biological) Survey <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Reporting Document Survey:		

Sign-off (as appropriate)	Name (print)	Approval Signature	Conditions (See Attached)
Contractor Sup't. or Env. Coordinator	Derek Price		<input type="checkbox"/> Yes <input type="checkbox"/> No
Lead Environmental Inspector	Shelby Howard		<input type="checkbox"/> Yes <input type="checkbox"/> No
Spread Supervisor	Michael Baksh		<input type="checkbox"/> Yes <input type="checkbox"/> No
Environmental Field Manager	Joan Inlow		<input type="checkbox"/> Yes <input type="checkbox"/> No
ROW Agent			<input type="checkbox"/> Yes <input type="checkbox"/> No

**For BLM Project Manager or Compliance Contact Use Only**

Variance Approved:       Variance Denied:       Date: 10/25/12

Signature: 

**For Compliance Manager and Monitor Use Only**

Variance Approved:      Variance Denied      Date:

Signature:

Stipulations

Spread:      OPPC Variance Request No.:

**VARIANCE CONDITIONS**

Name:      Title:      Organization:

Conditions:

Name:      Title:      Organization:

Conditions:

Name:

Title:

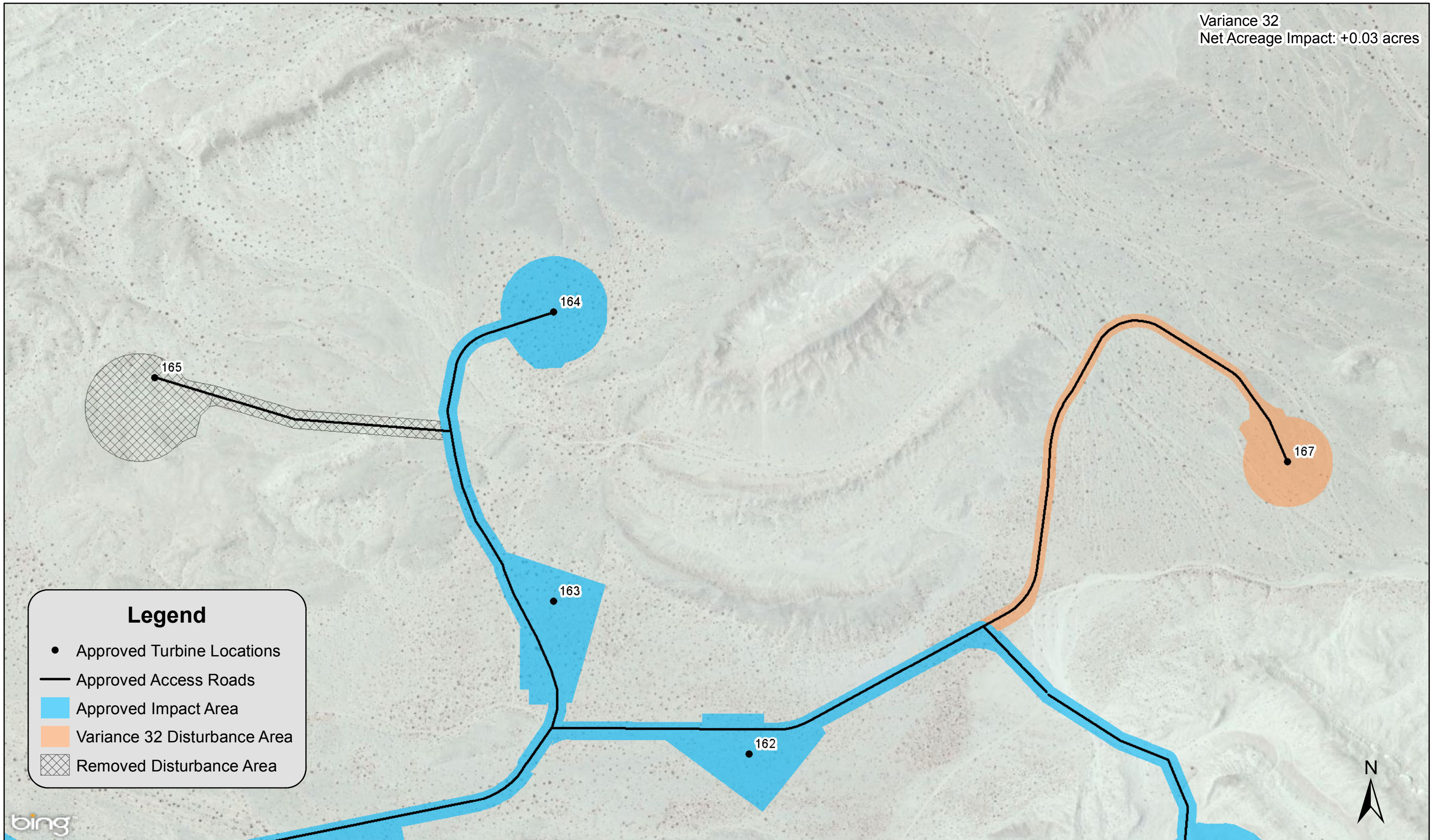
Organization:

Conditions:

# OCOTILLO WIND PROJECT: IMPERIAL COUNTY, CALIFORNIA

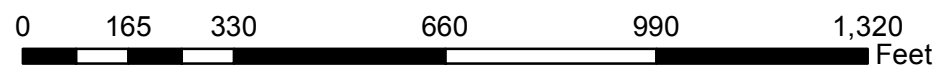
## VARIANCE 32 - OCTOBER 22, 2012

Variance 32  
Net Acreage Impact: +0.03 acres



**Legend**

- Approved Turbine Locations
- Approved Access Roads
- Approved Impact Area
- Variance 32 Disturbance Area
- Removed Disturbance Area



## Documentation of NEPA Adequacy (DNA)

U.S. Department of the Interior  
Bureau of Land Management (BLM)

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**BLM Office:** El Centro Field Office    **Lease/Serial/Case File No:** CACA-051552  
1661 So. 4<sup>th</sup> Street    **DNA Number:** DOI-BLM-CA-D070-2013-0015-DNA  
El Centro, CA 92243    **Tiered Off EIS No.:** ES-2011-15+1793

**Proposed Action Title/Type:** The proposed action is to approve requests from Ocotillo Express LLC (OE LLC) to approve three Variance Requests (VR) to the Ocotillo Wind Energy Facility Project (OWEF or Project) configuration including VR 30, 31, and 32. Each of the three VRs is further described below:

**VR 30:** VR 30 proposes two changes to the Project configuration. The first is to realign the access road and collection circuit corridor between Wind Turbines #163 and #164. The second Project modification includes micrositing Wind Turbine #164. The changes proposed to the access road and collection circuit corridor between Wind Turbines #163 and #164 includes realigning approximately 1,096 feet of the access road to the west of the currently approved alignment. The proposed realignment will have a maximum offset of approximately 180 feet from the currently approved location. The micrositing of Wind Turbine #164 includes moving the turbine pad approximately 458 feet to the west from its currently approved location (see Exhibit A).

The realignment of the access road and collection circuit corridor between Wind Turbines #163 and #164 and micrositing Wind Turbine #164 will have a total net impact decrease of approximately 0.10 acres to the previously approved disturbance area. The proposed corridor realignment and wind turbine pad site micrositing will remove approximately 3.10 acres from the previously approved disturbance area, while adding approximately 3.00 acres to the disturbance area.

**VR 31:** VR 31 proposes to microsite the pad site associated with Wind Turbine #161 approximately 99 feet to the southwest and to modify the associated turbine disturbance limits. The proposed micrositing will have a total net impact increase of 0.12 acres to the previously approved disturbance area. Approximately 0.38 acres will be removed from the previously approved disturbance area, while approximately 0.50 acres will be added to the previously approved disturbance area (see Exhibit B).

**VR 32:** The Project as approved, consists of a configuration of 112 wind turbines and provisions for five alternate wind turbine locations within the OWEF site. In accordance with Section 1.3 of the Record of Decision (ROD), any of the 112 wind turbine locations may be substituted for any of the five alternate wind turbine configurations. On October 9, 2012 Wind Turbine #167 was changed from an alternate site to a primary site as documented in the Bureau of Land

## **Documentation of NEPA Adequacy (DNA)**

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Management (BLM) Notice of Substitution of Alternate Wind Turbine Locations. Wind Turbine #167 was changed from an alternate site to a primary site in response to ongoing cultural investigations required as part of the construction monitoring activities for the Project. Turbine #165 was changed to an alternate site as documented in the aforementioned notice.

Although the ROD included approved alignments for the access roads and collection circuit corridors for each of the five alternate wind turbine sites, the disturbance limits associated with each of the five alternate wind turbine locations was not included in the total Project impact. VR 32 proposes to include the disturbance areas associated with the access road, collection circuit corridor, and wind turbine pad for Wind Turbine #167 as part of the total Project impact and to remove the disturbance areas associated with the access road, collection circuit corridor, and wind turbine pad for Wind Turbine #165 from the total Project impact. In addition VR 32 proposes to realign the access road and collection circuit corridor to Wind Turbine #167 from the alignment identified in the ROD.

The proposed modification will have a total net impact increase of 0.03 acres to the previously approved disturbance area. Approximately 3.63 acres will be removed from the previously approved disturbance area, while approximately 3.66 acres will be added to the previously approved disturbance area (see Exhibit C).

The changes proposed as part of each of the three VRs are within the current boundaries of the OWEF site and are within areas that were previously surveyed as part of the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) environmental review. The OWEF Project right-of-way (ROW) grant and associated amendment to the California Desert Conservation Area Plan (CDCA) was approved in a ROD signed on May 11, 2012. The ROD approved the Project configuration identified as the Preferred Alternative in the Final EIS/EIR, referred to as the Refined Project.

**Location of Proposed Action:** The OWEF Project is on 10,151 acres of BLM-managed public lands near the town of Ocotillo, Imperial County, California. Each of the modifications proposed by VR 30, 31, and 32 are within the Project boundaries analyzed in the Final EIS/EIR (March 2012).

**Applicant (if any):** Ocotillo Express LLC (OE LLC)

**A. Description of the Proposed Action and any applicable mitigation measures:**

**VR 30:** The proposed action will shift the access road and collection circuit corridor between Wind Turbines #163 and #164 by approximately 1,096 feet to the west and microsite Wind Turbine #164 approximately 458 feet to the west of its currently approved location. Approval of this variance will result in a net decrease of approximately 0.10 acres to the currently approved disturbance areas for these on-site facilities.

## **Documentation of NEPA Adequacy (DNA)**

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The purpose of this variance is to minimize potential disturbances to environmentally sensitive resources. During more detailed site assessments and subsequent environmental surveys of the access road and wind turbine locations, it was discovered that the current location of the access road bisects an environmentally sensitive area. In order to avoid disturbances to areas containing environmentally sensitive resources, this variance proposes to realign the access road between Wind Turbines #163 and #164 and microsite Wind Turbine #164.

VR 31: The proposed action will microsite Wind Turbine #161 approximately 99 feet to the southwest and modify the wind turbine pad site disturbance limits. Approval of this variance will result in a net impact increase of approximately 0.12 acres to the currently approved disturbance areas.

The purpose of this variance is to minimize potential disturbances to environmentally sensitive resources within the originally planned wind turbine pad site location. During more detailed site assessments and subsequent environmental surveys of the wind turbine location, it was discovered that the current location of Wind Turbine #161 lies adjacent to an environmentally sensitive area. In order to avoid disturbances to areas containing environmentally sensitive resources, micrositing Wind Turbine #161 approximately 99 feet to the southwest is proposed in order to avoid impacts to environmentally sensitive resources.

VR 32: The proposed action will include the disturbance areas associated with the access road, collection circuit corridor, and wind turbine pad for Wind Turbine #167 as part of the total Project impact. This proposed action will also remove the disturbance limits associated with the access road, collection circuit corridor, and wind turbine pad for Wind Turbine #165 from the total Project impact. In addition, VR 32 proposes to realign the access road and collection circuit corridor to Wind Turbine #167. Approval of this variance will result in a net impact increase of approximately 0.03 acres to the currently approved disturbance areas.

The proposed VR includes the disturbance areas associated with the access road, collection circuit corridor, and wind turbine pad for Wind Turbine #167, which was changed from an alternate site to a primary site as documented in the BLM Notice of Substitution of Alternate Wind Turbine Locations, dated October 9, 2012. Turbine #167 was changed from an alternate site to a primary site in response to ongoing investigations required as part of the construction monitoring activities for the Project. Wind Turbine #165 was changed to an alternate site as documented in the same aforementioned notice.

In addition, this variance will minimize potential disturbances to environmental sensitive resources within the access road and collection circuit corridor to Wind Turbine #167. During more detailed site assessments and subsequent environmental surveys of the access road and collection circuit corridor, it was discovered that the access road and collection circuit corridor bisect an environmentally sensitive area. In order to avoid disturbances to areas containing

## **Documentation of NEPA Adequacy (DNA)**

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environmentally sensitive resources, this variance proposes to realign the access road and collection circuit corridor alignment for Wind Turbine #167 that was previously approved with the ROD.

Each of the actions proposed as part of VR 30, 31, and 32 have been requested in order to comply with Final EIS/EIR Mitigation Measure (MM) CUL-2 (*Avoid and protect potential significant resources*), which aims to minimize disturbances to sensitive environmental resources and CUL-3 (*Develop and implement a Management Plan for Archaeological Monitoring, Post-Review Discovery*), in order to minimize disturbance to areas of potential significance. In accordance with the procedures and guidance provided in the ROD, OE LLC is requesting a level 2 variance to allow for each of the modifications proposed as part of VR 30, 31, and 32 to help further reduce potential impacts.

The modifications proposed as part of VR 30, 31, and 32 would not result in new impacts or substantially intensify impacts analyzed in the Final EIS/EIR. The affected area for the proposed access road alignment modifications and wind turbine pad site micrositing is located within the areas previously surveyed for cultural and sensitive wildlife and plant species in support of the OWEF Final EIS/EIR. The geographic and resource conditions in the affected areas are the same as those addressed in the Final EIS/EIR. The associated grading and construction associated with the infrastructure shifts would be performed at the same time as the OWEF Project construction and conducted in accordance with the same impact avoidance, minimization, monitoring, and mitigation measures that apply to the Project impact areas. Such measures include those specified in the Project's ECCMP, BLM's ROD, the Project's ROW grant, and approved plans and permits for specific activities related to the construction of the Project. Consequently, the potential impacts associated with VR 30, 31, and 32 have been addressed and analyzed in the Final EIS/EIR and have been mitigated through measures identified in the Final EIS/EIR and adopted by the ROD.

### **B. Land Use Plan Conformance:**

*LUP Name:* California Desert Conservation Area    *Dates Approved:* 1980, as amended

*Other documents:* California Desert Conservation Area Land Use Plan Amendment  
*Date Approved:* May 9, 2012

*The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decisions:*

*California Desert Conservation Area Plan, 1980, as amended (CDCA Plan).* BLM lands in California Desert District are managed pursuant to the CDCA Plan. The CDCA Plan establishes four multiple-use classes (MUC); MUC guidelines; and plan elements for specific resources or activities, such as motorized vehicle access, recreation, and vegetation.



## **Documentation of NEPA Adequacy (DNA)**

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The majority of the Project site is within the Multiple Use Class (MUC), Limited Use (L). Wind energy is an allowable use on Class L lands after NEPA requirements are met. The FEIS and ROD is the mechanism for complying with those NEPA requirements. The modifications proposed by VR 30, 31, and 32 are in conformance with the CDCA Plan because the construction activities would remain within the same BLM CDCA-designated area as the approved OWEF Project. Thus, a CDCA Plan amendment is not required for the proposed micro-siting and work space modification within the approved OWEF Project site.

### **C. Identify applicable NEPA document(s) and other related documents that cover the proposed action.**

Bureau of Land Management and the County of Imperial. 2012. *Proposed Plan Amendment and Final Environmental Impact Statement/Final Environmental Impact Report for the Ocotillo Wind Energy Facility*. DOI Control No. DES 11-20, SCH No. 2010121055. February 2012.

Bureau of Land Management. 2012. Record of Decision for the Ocotillo Wind Energy Facility and Amendment to the California Desert Conservation Area Plan, DOI Control No. FES11-20, Case File Number: CACA-051552. El Centro, California: Bureau of Land Management, El Centro Field Office. May 2012.

U.S. Fish and Wildlife Service. 2012. *“Formal Section 7 Opinion on the Proposed Ocotillo Express Wind Project, Imperial County, California (3031-P) CAD000.06.”* Memorandum from the Field Supervisor, Carlsbad Fish and Wildlife Office, transmitting the Biological Opinion to the District Manager, California Desert District Office, Bureau of Land Management. April 2012.

Bureau of Land Management, U.S. Army Corps of Engineers, Ocotillo Express LLC, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation. 2012. *Memorandum of Agreement Among the Bureau of Land Management- California, the U.S. Army Corps of Engineers, Ocotillo Express LLC, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Ocotillo Express Wind Energy Project*, Imperial County, California. May 8, 2012.

Bureau of Land Management. 2012. *Ocotillo Express Wind Energy Facility Environmental and Construction Compliance Monitoring Plan*. El Centro California: Bureau of Land Management, El Centro Field Office. May 2012.

Bureau of Land Management. 2012. *“Right-of-Way Grant.”* Serial No. CACA-051552. El Centro California: Bureau of Land Management,” El Centro Field Office.

## Documentation of NEPA Adequacy (DNA)

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### D. NEPA Adequacy Criteria

1. **Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the Project within the same analysis area, or if the Project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?**

**YES.** The proposed modifications proposed as part of VR 30, 31, and 32 would not result in new facilities or substantially change the geographic location of any proposed Project facilities or result in modifications to the Project boundary. To the extent that minor realignments and work space adjustments are proposed, these changes would not be substantial and would be sufficiently similar to those analyzed in the Final EIS/EIR. In particular, the geographic and resource conditions in the area where the changes would take place are virtually the same as those approved in the Final EIS/EIR. Therefore the modifications proposed as part of VR 30, 31, and 32 are within the Project area and considered part of the same action previously analyzed in the Final EIS/EIR and would not result in impacts beyond the scope of those analyzed in the Final EIS/EIR.

2. **Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?**

**YES.** The proposed modifications proposed as part of VR 30, 31, and 32 are within the range of alternatives evaluated in the Final EIS/EIR. Each of the action alternatives evaluated in the Final EIS/EIR included the wind turbines, access roads, and collection circuit corridors as described in Final EIS/EIR Section 2.1.3 Features Common to all Alternatives (Final EIS/EIR Section 2, Proposed Action and Alternatives). In addition, the wind turbines, access roads, and collection circuit corridors were considered in the impact analysis in Sections 4.2 through 4.21 of the Final EIS/EIR. Therefore the modifications proposed as part of VR 30, 31, and 32 do not effect or indicate a need to modify the range of alternatives analyzed in the Final EIS/EIR. No additional NEPA review is required.

## **Documentation of NEPA Adequacy (DNA)**

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- 3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standards assessments, recent endangered species listings, and updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the proposed action?**

**YES.** The slight modifications to infrastructure alignments and work areas are within the areas previously surveyed for cultural, geotechnical, and sensitive wildlife and plant species in support of the OWEF Final EIS/EIR. The associated surveys and studies identified the need to employ specific and general mitigation for Project related impacts to environmentally sensitive resources on-site. The analyses and conclusions in the Final EIS/EIR are valid as of March 2012 and apply to all Project related activities, including the proposed access road and collection circuit corridor realignment and micrositing. Cultural and biological resource surveys were performed from 2009 through 2012. The avoidance and minimization measures as well as compensatory mitigation to offset direct, indirect, and cumulative impacts on wildlife resources would assure compliance with state and federal laws aimed at protecting these resources. There is no new information and no new guidance associated with the modifications proposed as part of VR 30, 31, and 32 that would trigger the need for additional analyses beyond the analyses presented in the Final EIS/EIR.

- 4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?**

**YES.** The direct, indirect and cumulative effects of the modifications proposed as part of VR 30, 31, and 32 are within the OWEF Project site and would be essentially the same to those analyzed in Section 4 of the Final EIS/EIR for the approved OWEF Project. The potential for micrositing of Project facilities was considered in the environmental review completed for the approved OWEF Project. Further, any OWEF related Project activities, including disturbance within the proposed micrositing areas, would be conducted in accordance with the same impact avoidance, minimization, monitoring, and mitigation measures that apply to all other Project impact areas. Such measures include those specified in the Project's ECCMP, BLM's ROD and approved plans and permits for specific types of related activities. Consequently, the direct, indirect and cumulative effects of the modifications proposed as part of VR 30, 31, and 32 would be within the scope of those analyzed and mitigated for in the Final EIR/EIS for the approved OWEF Project.

## **Documentation of NEPA Adequacy (DNA)**

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**5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?**

**YES.** Public review and comment on the OWEF Project were extensive. Public scoping and frequent agency meetings were completed as described in the Final EIS/EIR, Section ES.8, Public Participation and Chapter 5. All public comments received on the Draft EIS/EIR were carefully analyzed and agency responses are included in the Final EIS/EIR. Appendix O (Comment Letters) and Appendix N (Response to Comments) include all of the written comment letters received by the BLM and County of Imperial in response to the Notice of Availability and the responses to these comment letters. Additionally, 12 protests of the associated plan amendments were considered and resolved by the Director of the BLM prior to the issuance of the ROD for the OWEF.

As described above, the modifications proposed as part of VR 30, 31, and 32 are within a portion of the Project site that was previously surveyed in support of the OWEF EIS/EIR. The proposed modification of these on-site facilities would not result in impacts beyond those analyzed previously as part of the Final EIS/EIR. Therefore, further public involvement and interagency review of the proposed changes is not required.

**Documentation of NEPA Adequacy (DNA)**

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**E. Persons/Agencies/BLM Staff Consulted**

Nicollee Gaddis  
Nicollee Gaddis, Planning & Environmental Coordinator

10/25/12  
Date

Carrie Simmons  
Carrie Simmons, Acting Resources Branch Supervisor

10/25/12  
Date

**Conclusion:**

*Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitute BLM's compliance with the requirements of NEPA.*

Robert Brian Paul 10/25/12  
Signature of Project Lead

Nicollee Gaddis  
Signature of NEPA Coordinator

M. Goodro  
Signature of Responsible Official:  
Margaret L. Goodro, Field Manager

10/25/12  
Date

**United States Department of the Interior**  
**BUREAU OF LAND MANAGEMENT**

**El Centro Field Office**  
1661 South 4<sup>th</sup> Street  
El Centro, CA 92243  
[www.blm.gov/ca/elcentro/](http://www.blm.gov/ca/elcentro/)

CA-670-13-041/DOI-BLM-CA-D070-2013-0015-DNA/CACA-051552/(8100)P

**Memorandum**

To: Field Manager, El Centro Field Office

From: Archaeologist, El Centro Field Office

Subject: Agency Findings and Determinations under Section 106 of the National Historic Preservation Act

Project: Ocotillo Wind Energy Project Variance 032, Imperial County, California

The Bureau of Land Management (BLM) El Centro Field Office has received a Variance Request (032) from Ocotillo Express LLC to approve a set of micro-siting changes to the approved Ocotillo Wind Energy Facility Project (Project) as analyzed in the Final Environmental Impact Statement/Environmental Impact Report. Variance 032 includes changes to the construction status of two wind turbines, 165 and 167.

Identification and evaluation efforts for the Project are described in the draft BLM Class III report titled *Archaeological Survey Report for the Ocotillo Express Wind Energy Project, Imperial County, California* (Tierra Environmental Services, March 2018) and included the Project area covered by this Variance Request. The area covered by Variance 032 had been previously surveyed with no archaeological resources recorded within the Variance 032 disturbance area. In support of the Variance 032 Request and in accordance with the final *Management Plan for Archaeological Monitoring, Post-Review Discovery and Unanticipated Effects*, April 2018 (Management Plan), Tierra Environmental Services personnel (consultant) conducted a re-survey of the proposed Variance area. This is documented in their confidential letter report to Ms. Carrie Simmons dated October 23, 2012. In regards to this Variance Tierra makes the following recommendations:

“Based on this analysis, Variance 032 would not result in any additional impacts to significant cultural resources in addition to those already identified/described in the Final Environment Impact Statement/Environmental Impact Report and associated documents. Similarly, even though the proposed Variance is located within an area that has been identified as a Traditional Cultural Property (TCP), which the BLM has assumed is eligible to the National Register of Historic Places (NRHP) for purposes of analysis; it is our recommendation that Variance 032 would not change the previously identified adverse effects to this TCP.

Based on the project documentation as discussed above, it is our recommendation that no significant archaeological or historical resources would be affected by the proposed Variance. No additional ESAs would be required for the proposed Variance 032 shift.”

Pursuant to the Project’s Memorandum of Agreement (MOA)<sup>1</sup>, fully executed on May 8, 2018, BLM professional cultural resources staff has reviewed this proposed Variance Request. The BLM concurs with the contractor’s recommendations and based on the above documentation, the MOA, and the BLM Record of Decision for this Project, compliance with the following actions are required as part of issuance of an approval of Variance 032:

- **CUL-2 – Avoid and protect potentially significant resources**
- **CUL-3 – Implement Management Plan for Archaeological Monitoring, Post-Review Discovery, and Unanticipated Effects**
- **CUL-5 – Monitor construction at known ESAs**
- **CUL-8 – Monitor construction in areas of high sensitivity for buried resources as applicable and consistent with CUL-1 based on prior and recent surveys of the shift area**
- **Ocotillo Express LLC will also continue to comply with all other relevant cultural resources mitigation measures as outlined in the Memorandum of Agreement and the ROD as appropriate.**

All archaeological sites and all potentially culturally sensitive areas that are within 150 feet of construction activities shall be demarked as ESAs and protected as exclusionary zones. Additionally, archaeological and Native American monitors are to be on-site during the temporary fencing and during any ground disturbing activities near designated ESAs.

Prior Section 106 review and consultation for the MOA for the Project provide that the required conditions and mitigation measures listed above are adequate to identify and protect historic properties on public lands that might be affected by Variance Request 032. Therefore, the BLM staff archaeologist has recommended that there would be no adverse effect on historic properties if the above measures are implemented.

The BLM makes the following findings for this undertaking.

- 1. The activities covered by the Variance will take place within the defined APE for the Project.**
- 2. The BLM finds that there will be *no additional adverse effects to historic properties* by this micro-siting modification to the Project provided the above mitigation measures are implemented as required by the MOA and the ROD.**
- 3. Accordingly, the Variance is covered by the prior consultations for the Project. No additional consultation is required pursuant to the NHPA.**

This memorandum documents the recommendations of the cultural resources staff, the acceptance of these recommendations by the Agency Official (as defined in 36 CFR §800.2(a), Protection of Historic Properties), and constitutes the formal statement of Agency findings and

<sup>1</sup>Memorandum of Agreement Among the BLM (California), the United States Army Corps of Engineers, Ocotillo Express LLC, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Ocotillo Express Wind Energy Project, Imperial County, California (May 8, 2012).

determinations for Section 106 of the National Historic Preservation Act with respect to Variance Request 032.

Recommended by:

Christina McCallum 10-25-12  
Archaeologist, El Centro Field Office Date

Approved by:

Carrin Simmons 10/25/12  
Archaeologist, El Centro Field Office Date

Acceptance by the Agency Official:

Thomas F. Gale ACTS/NG 10/25/2012  
Field Manager, El Centro Field Office Date