



EUCI Presents a Conference on:

RENEWABLE ENERGY DEVELOPMENT ON FEDERAL LANDS

March 30-31, 2010 • Pointe Hilton Tapatio Cliffs • Phoenix, Arizona

Pre-Conference Workshop

Environmental Reviews: The Nuts and Bolts of the Process

Monday, March 29th, 2010

Keynote Speaker

Steve Black

Counselor to the Secretary, U.S.
Department of the Interior

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RENEWABLE ENERGY DEVELOPMENT ON FEDERAL LANDS

March 30-31, 2010

OVERVIEW

The Secretary of the Interior, Ken Salazar, continues to emphasize the importance of renewable energy development on federal lands, but the procedure to accomplish this development is currently long and arduous. Though many federal agencies have agreed to work together to streamline the permitting process, navigating the bureaucracy remains a major hurdle to energy development on federal lands. Now, as renewable developers start to tackle the permitting and environmental review challenges, understanding the regulations that control the process is becoming one of their major focuses in 2010.

This conference is designed to address many of these significant challenges. It will examine the role the Bureau of Land Management has in permitting and the environmental review process prior to development. It will discuss some of the policies the Department of Interior is considering to streamline and incentivize additional rapid development. Also, it will discuss the importance of consulting state and local authorities despite the federal jurisdiction in order to ensure availability of adequate resources including transmission capacity and water resources. Finally, it will evaluate the conflicts innate in allowing renewable energy development on some of the nation's most precious land resources, and provide potential options for balancing the conflicting objectives of energy development and land conservation.

LEARNING OUTCOMES

- Examine the role the Bureau of Land Management (BLM) has in permitting and the environmental review process prior to energy development
- Identify the Programmatic EIS process under NEPA and describe BLM's effort to fast-track development
- Discuss the policies the Department of Interior is considering to streamline and incentivize additional renewable energy development quickly
- Demonstrate the importance of consulting state and local authorities despite federal jurisdiction in order to ensure adequate transmission capacity and water resource availability
- Explain cultural resource protection requirements and describe the cooperative efforts between government agencies and private land owners
- Evaluate the conflicts innate in allowing renewable energy development on some of the nation's most precious land resources

WHO SHOULD ATTEND

- Renewable energy professionals and consultants
- Renewable energy project developers
- Regulatory and public relations staffers
- Environmental organizations
- Financial and investment groups
- Lawyers and legal staff
- Compliance officers
- Electric utility procurement, generation, and transmission personnel
- Siting and permitting professionals

IACET



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EUCI is authorized by IACET to offer 0.9 CEUs for this program.

Requirements for Successful Completion of Program

Participants must sign in/out each day and be in attendance for the entirety of the conference to be eligible for continuing education credit.

Instructional Methods

Case Studies, PowerPoint Presentations, Question and Answer Sessions

RENEWABLE ENERGY DEVELOPMENT ON FEDERAL LANDS

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PROGRAM AGENDA

TUESDAY, MARCH 30, 2010

7:30 – 8:00 a.m. Registration and Continental Breakfast

8:00 – 8:15 a.m. Opening Remarks

**8:15 – 9:00 a.m. Session 1: Obtaining Authorizations to Use the Public Domain
BLM's Management of Public Lands and its Role in the NEPA Process**

- Special use permits and rights of way
 - Overview of the NEPA process and BLM's role
 - Description of the Programmatic Environmental Impact Statements (PEIS)
- *Jim Kenna, Arizona State Director, Bureau of Land Management*

9:00 – 11:00 a.m. Session 2: Environmental Review and Approval Processes

9:00 – 10:00 a.m. The Endangered Species Act (ESA) and Other Environmental Reviews

- Overview of the ESA
 - National Historic Preservation Act
 - Permitting strategies
- *Mike Brennan, Partner, Holland & Hart*

10:00 – 10:15 a.m. Morning Break

10:15 – 11:00 a.m. Cultural Resource Protection

- Site location, identification, and monitoring
 - Intergovernmental coordination; permit reviews
 - Cooperation with public and private landowners
- *Arrow Coyote, Cultural Resources Protection Coordinator,
Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians*

**11:00 a.m. – 12:00 p.m. Session 3: State and Local Roles in Project Siting
States' Role in Development**

Though renewable energy development on federal land is controlled by federal agencies, state and local governments play an important role in the process as they are vital in getting the electricity to market. In this discussion, commissioners from two southwestern Public Utility Commissions will describe the states' role in transmission and development planning, providing insights on when and how developers should consult with various stakeholders.

- *Chairman Kristin Mayes, Arizona Corporation Commission*
- *Commissioner Jason Marks, New Mexico Public Regulation Commission*

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PROGRAM AGENDA

TUESDAY, MARCH 30, 2010 (CONTINUED)

12:00 – 1:00 p.m. Group Luncheon

1:00 – 3:45 p.m. Session 4: Policies to Promote Renewable Energy Development Activities on Federal Land

KEYNOTE

**1:00
– 2:00 p.m.**

Keynote Address: Department of Interior's Efforts to Fast-Track Renewable Energy Siting

- Streamlining the permitting process amongst federal agencies
 - Potential new legislation
 - Renewable specific initiatives
- *Steve Black, Counselor to the Secretary, U.S. Department of the Interior*

2:00 – 2:45 p.m.

Transmission Corridor Developments

- Impact of nine agency Memorandum of Understanding (MOU)
 - Renewable Energy Zones
 - Available capacity vs. need
- *Rich Halvey, Energy Program Director, Western Governors' Association*

2:45 – 3:15 p.m.

Networking Break

3:15 – 3:45 p.m.

Western Area Power Administration's Transmission Infrastructure Program

- Construct and/or upgrade transmission lines to help deliver renewable resources to market
 - Select, study, and/or build projects under this new authority that are in the public interest
 - Ensure projects are economically feasible and are adequate to repay project costs
 - Leverage borrowing authority by partnering with others
- *Darrick Moe, Regional Manager, Desert Southwest Region, Western Area Power Administration (WAPA)*

3:45 – 5:00 p.m.

Session 5: Getting it Done

PANEL: Advice Regarding Navigation of the Permitting Process

The permitting process on federal lands can be a complex and at times intimidating endeavor. This panel discussion will address some of the biggest challenges developers face as they traverse the development path and suggest guidance on how to best overcome these challenges.

- *Mike Brennan, Partner, Holland & Hart*
- *David N. Hicks, Director of Renewable Energy Procurement and Technical Services, NV Energy*
- *Steve Black, Counselor to the Secretary, U.S. Department of the Interior*

5:00 – 6:00 p.m.

Networking Reception

Register today! Call (201) 871-0474

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PROGRAM AGENDA

WEDNESDAY, MARCH 31, 2010

7:30 – 8:00 a.m. **Continental Breakfast**

8:00 – 9:30 a.m. **Session 6: Utility and Developer Perspectives**

8:00 – 8:45 a.m. **Dry Lake Wind Farm: A Case Study**

- Navigating the permitting process for private, state, and federal lands
 - Site assessment and getting public buy-in for the project
 - Future development plans for Phase II
- *Martin Mugica, Executive Vice President, Renewables, Iberdrola Renewables*

8:45 – 9:30 a.m. **Development of Public Lands and the Utility Renewable RFP Process**

- Assessment of RFP bids from projects on public lands
 - o Power purchase agreement
 - o Build-transfer arrangements
 - o Joint ventures
 - The Complete Proposal versus the Deficient Proposal
 - o Cost
 - o Development timeline
 - o Demonstrated understanding of process and connected actions
 - Transmission interconnections across public lands
- *David N. Hicks, Director of Renewable Energy Procurement and Technical Services, NV Energy*

9:30 – 10:00 a.m. **Networking Break**

10:00 – 10:45 a.m. **Session 7: Interactions with Other Policies and Constraints on Renewable Energy Development on Public Domain**

Balancing Energy Development with Land Management and Water Constraints

- Land use planning considerations
 - Water resource availability in development plans
- *Bob Lotts, Water Resource Manager, Arizona Public Service*

10:45 a.m. – 12:00 p.m. **Session 8: Green is in the Eye of the Beholder**

PANEL: Environmentalism and Renewable Energy Development from Global to Local Scale

Though somewhat counterintuitive, the push to “green” our energy resources has many “green” environmental associations outraged by the consequent habitat destruction. This panel will discuss the at times conflicting goals of decreasing our carbon footprint, preserving our natural habitats and ecosystems, and developing renewable energy resources. It will also discuss potential compromises on how best to balance these conflicting objectives.

- *Brad Powell, Arizona Public Lands Coordinator, Trout Unlimited*
- *Toni Bouchard, Renewable Energy Advisor, Arizona Public Service*
- *Steven Fine, Vice President, ICF International*

12:00 p.m. **Conference Adjourns**

RENEWABLE ENERGY DEVELOPMENT ON FEDERAL LANDS

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Pre-Conference Workshop

ENVIRONMENTAL REVIEWS: THE NUTS AND BOLTS OF THE PROCESS

Monday, March 29th, 2010

Registration and Continental Breakfast: 8:30 – 9:00 a.m.

Workshop Timing: 9:00 a.m. – 4:00 p.m.

Lunch will be provided

IACET = 0.6 CEUs

OVERVIEW

There are a number of different environmental laws and regulations that must be considered prior to embarking on any new development projects on federal lands. Although federal agencies are now collaborating on ways to streamline the permitting process, it is important for all developers to begin with a basic understanding of the laws and with a clear strategy on how to ensure compliance throughout the process.

This workshop will outline the major provisions of the key environmental laws controlling the development process. It will provide a thorough summary of the NEPA process, and suggest advice on how to best conduct the Environmental Assessments. It will discuss BLM's efforts to prepare Programmatic Environmental Impact Statements in order to expedite renewable energy projects. Also, it will provide compliance and regulatory management strategies for both the Endangered Species Act as well as the Migratory Bird Treaty Act. It will review the National Historic Preservation Act and describe methods to ensure compliance with Section 106. Finally, it will propose strategies on how to fit these permitting and compliance pieces together in order to move the project to its successful completion on budget and on schedule.

Instructional Methods

Instructional methods include a PowerPoint presentation, brief case studies, and question and answer session

Requirements for Successful Completion

Participants must sign in at the beginning of the workshop and out at the end of the workshop and be in attendance for the entire program to be eligible for continuing education credit.

LEARNING OUTCOMES

Workshop Attendees will:

- Describe the NEPA process and suggest advice on how to best conduct the Environmental Assessments
- Discuss BLM's efforts to prepare Programmatic Environmental Impact Statements in order to expedite renewable energy projects
- Propose compliance and regulatory management strategies for both the Endangered Species Act as well as the Migratory Bird Treaty Act
- Review the National Historic Preservation Act and describe methods to ensure compliance with Section 106
- Prepare strategies on how to fit these permitting and compliance pieces together in order to move the project to its successful completion on budget and on schedule

AGENDA

- I. NEPA
 - a. Introduction and Overview of NEPA
 - b. Recent NEPA Developments
 - c. Understanding the NEPA process
 - i. Environmental Assessments (EA) and Environmental Impact Statements (EIS)
 - d. Programmatic Environmental Impact Statements
 - i. Solar, Wind, Geothermal
- II. Endangered Species Act (ESA)
 - a. Sections 7 and 9
 - b. Compliance and Regulatory Process Management Strategies
- III. Avian Protection Requirements
 - a. Migratory Bird Treaty Act
 - b. Bald and Golden Eagle Protection Act
- IV. National Historic Preservation Act
 - a. Section 106 Compliance
- V. Permitting Strategies: How the Pieces Fit Together
 - a. Comingled federal, private, state lands
 - b. Sale of Project
 - c. Financing of Project
 - d. Lessons Learned

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WORKSHOP INSTRUCTORS

Mike Brennan, Partner, Holland & Hart

Mr. Brennan has broad experience with virtually all aspects of the Endangered Species Act and the National Environmental Policy Act and their application to natural resource development activities conducted on public and private lands under permitting authorities such as the Federal Land Policy and Management Act, the National Forest Management Act, the Federal Power Act, the Natural Gas Policy Act, the Mineral Leasing Act, and Section 404 of the Clean Water Act. He has also worked extensively with the Migratory Bird Treaty Act and the wildlife and natural resource conservation provisions of other environmental and public land laws. Mr. Brennan's clients include water resource providers and members of the natural gas, hydropower, mining, oil, real estate development, and other industries.

Mr. Brennan has been active in the environmental and natural resources field since 1983. Following a clerkship with the Honorable Stephanie K. Seymour, United States Tenth Circuit Court of Appeals, he joined Holland & Hart in 1983, and practiced environmental law in the firm's Denver and Washington D.C. offices. In 1989, he accepted an appointment with the Bush Administration to serve as the Executive Assistant to the Director of the U.S. Fish & Wildlife Service within the Department of the Interior. Mr. Brennan left federal service in March of 1993 to return to Holland & Hart.

Elizabeth Mitchell, Partner, Holland & Hart

Ms. Mitchell has practiced environmental law since 1991. She has counseled and assisted clients with the site selection and permitting of solar, wind, natural gas, ethanol, coal and geothermal powered facilities and projects. Ms. Mitchell represents clients in all phases of local, state and federal permitting and provides compliance counseling once projects have been completed. Ms. Mitchell regularly advises developers and lenders regarding environmental aspects of financing such power generating projects.

Ms. Mitchell has practiced in multiple substantive areas of environmental law, including water quality, solid waste and hazardous waste. In addition, Ms. Mitchell has counseled national and multi-national corporations regarding environmental compliance requirements. Ms. Mitchell has represented corporations in environmental cost recovery, bankruptcy and Clean Water Act litigation and in domestic and international transactions.

Craig Galli, Partner, Holland & Hart

Mr. Galli focuses his practice on litigation in a variety of natural resources, environmental, land use and energy-related cases. Mr. Galli has litigated over 50 cases in federal district court and U.S. courts of appeals, and has adjudicated numerous cases before administrative agencies. He also advises a wide range of business and industrial clients in the manufacturing, mining, transportation, construction, real estate development and other sectors regarding environmental and natural resources permitting, compliance, contaminated property, due diligence, environmental insurance, environmental audits and management systems, and international environmental law matters. Mr. Galli served as primary outside legal counsel to the 2002 Olympic Winter Games for all environmental compliance and permitting matters.

Prior to private practice, Mr. Galli worked as a Senior Trial Attorney with the Environment and Natural Resources Division, U.S. Department of Justice in Washington, D.C., where he defended federal agencies and brought enforcement actions in dozens of states and two U.S. territories. In 1989, he tried the nine-month "Love Canal" case on behalf of the federal government.

Bill Myers, Partner, Holland & Hart

Mr. Myers has extensive experience in natural resources and public land law, having rejoined the firm in 2003 after serving as the Solicitor of the U.S. Department of the Interior. As Solicitor, Mr. Myers was the chief legal officer and third-ranking official in the Department. He supervised an office of over 300 attorneys in 19 locations nationwide. He advised the Secretary and subordinate officials on appellate and trial matters as well as policy and administrative issues. He also worked closely with the Department of Justice and other federal agencies. Interior's jurisdiction covers approximately 20 percent of nation's surface estate and a significant amount of the nation's minerals.

Mr. Myers first joined Holland & Hart's Boise office in 1997. He advised clients on utilization of federal lands, environmental compliance, legislative matters, and litigation.

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WORKSHOP INSTRUCTORS (CONTINUED)

Andrew Irvine, Associate, Holland & Hart

Mr. Irvine concentrates his practice in natural resources and environmental law, including work in federal and state public land law, environmental regulatory compliance and permitting, minerals, water, and air. He has worked with clients that include water resource providers and members of the natural gas, hydropower, mining, oil, and other industries.

Mr. Irvine joined Holland & Hart in 2006, and practiced in the firm's Denver office before moving to the firm's Jackson office in late 2007. Prior to joining Holland & Hart, he held law clerk positions with the Arvada City Attorney's Office, Gold Fields Exploration, Inc., and the Bonneville Power Administration. Mr. Irvine also served as a legal intern for the U.S. Department of Justice, Environment and Natural Resources Division.

Dessa Reimer, Associate, Holland & Hart

Ms. Reimer is a member of Holland & Hart's natural resources department. Her practice focuses on federal and state environmental regulation, including impact assessment, endangered species, and permitting aspects of project development on public and private lands for a variety of clients. Ms. Reimer is involved in Holland & Hart's climate change and geothermal resources practice groups.

Prior to joining Holland & Hart, Ms. Reimer completed a one year judicial clerkship with the Honorable William F. Downes of the United States District Court in the District of Wyoming. Ms. Reimer also worked with Judge Robert Castor and Judge Wade Waldrip of the Second Judicial District, Circuit Court of Wyoming during law school.

