

Rainbow Ranch Wind LLC  
Rainbow West Wind LLC  
2792 Desert Wind Road  
Oasis, Idaho 83647  
Telephone 208-859-1882  
Brian D. Jackson, Authorized Manager  
Brian@AmericanWind.net

RECEIVED  
2011 MAR 17 PM 4:58  
IDAHO PUBLIC  
UTILITIES COMMISSION

**BEFORE THE IDAHO  
PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE )  
APPLICATION OF IDAHO POWER ) **CASE NO. IPC-E-10-59**  
COMPANY FOR A DETERMINATION )  
REGARDING A FIRM ENERGY SALES )  
AGREEMENT BETWEEN IDAHO ) **COMMENTS OF RAINBOW RANCH**  
POWER AND MURPHY FLAT MESA, ) **WIND LLC**  
LLC )  
\_\_\_\_\_ )

IN THE MATTER OF THE )  
APPLICATION OF IDAHO POWER ) **CASE NO. IPC-E-10-60**  
COMPANY FOR A DETERMINATION )  
REGARDING A FIRM ENERGY SALES )  
AGREEMENT BETWEEN IDAHO )  
POWER AND MURPHY FLAT ) **COMMENTS OF RAINBOW WEST**  
ENERGY, LLC ) **WIND LLC**  
\_\_\_\_\_ )  
\_\_\_\_\_ )

The following documents consist of informational exhibits regarding the project activities and efforts leading up to finalizing the firm energy sales agreement between Idaho Power Company and Rainbow Ranch Wind LLC and the firm energy sales agreement between Idaho Power Company and Rainbow West Wind LLC.

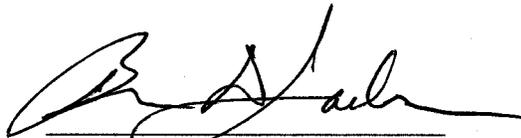
Attachment 1:

March 17, 2011 Memo from American Wind Group with Project History Timeline 2009-2010

Attachment 2:

November 17, 2010 Email from American Wind Group, Brian Jackson to Idaho Power regarding negotiations.

Dated and respectfully submitted as comments on the cases March 17, 2011.

A handwritten signature in black ink, appearing to read "Brian D. Jackson", written over a horizontal line.

Brian D. Jackson  
Authorized Manager

## **Attachment 1:**

### **March 17, 2011 Memo from American Wind Group with Project History Timeline 2009-2010**



March 17, 2011

MEMO: History of Rainbow Ranch Development and Utility Interactions

CASES:           RAINBOW RANCH WIND LLC           CASE IPC-E-10-59  
                  RAINBOW WEST WIND LLC           CASE IPC-E-10-60

Dear Commissioners:

American Wind Group was completely involved on behalf of the developments in most of the project activities and was asked to simply document and outline the extensive interactions, discussions, meetings and progress over the past which has brought the projects to the point of signing contracts with Idaho Power. To the best of my knowledge and ability I have tried to document accurately the events, dates, and circumstances and include them in this write-up.

The one point I would simply emphasize is that at all times during 2010 the efforts and activities were wrapped around the intention to sign the standard offer contract for the power sales agreement with Idaho Power in November of 2010. That point was emphasized to Idaho Power in August. These projects were financed for the development stages entirely out of the development and landowner teams along with a USDA feasibility study grant for part of the expenses to keep more value locally than most wind projects typically achieve. Certain project features, permitting, assessments, and critical analyses were not completed, and could not be completed before October. The intention was and always had been to finish those tasks in time to make sure the projects were past critical steps which were achieved in October so the contracts could be signed in November.

The certain Utility created events and filings in November regarding available rates and contracts did not accelerate activities and intentions for these projects but instead served to delay the intended progress on the PPA documents to the point of not getting them signed until December 13, 2010.

Sincerely,

Brian D. Jackson  
President, American Wind Group LLC

# **RAINBOW RANCH WIND LLC, 20MW**

## **RAINBOW WEST WIND LLC, 20MW**

It should be emphasized that each of these projects were designed and intended originally to be exactly 20MW nameplate in size and qualify as 10 average MW for design production at this site with eight 2.5MW turbines. The two projects are physically located more than 1 mile apart from each other. Up to 23MW nameplate could be installed with certain turbine models and only 20MW nameplate with other turbine models so the PPA states the project size to be "up to 23MW."

---

### Historical Timeline

#### **2008 – Initial Project Discussions**

Ben Bartlett, the owner of the Rainbow Ranch property and Brian Jackson began talking about Rainbow Ranch for wind possibilities in 2008 and were looking at the substantial data that had already been collected for several years on Rainbow Ranch property. The cost of performing a feasibility study was evaluated and the discussions continued into 2009 when the decision was made to apply to the USDA for a Feasibility Study Grant. We felt there was potential, but the cost of projects was increasing dramatically each year and smaller projects of 20MW or under were difficult to get financing for as stand-alone developments. When the Federal Government announced the Investment Tax Credit as a major incentive, we evaluated the possibilities and felt the newer turbines and this special Federal incentive to promote construction could make the difference in the ability to finance a project on Rainbow Ranch.

#### **Spring and Summer of 2009 – Preliminary Evaluation and USDA Grant Applications**

We performed preliminary site evaluations and analysis of nearby anemometer data from a historical perspective. That 20m anemometer which had collected several years of data at Rainbow Ranch but had been ultimately neglected and almost destroyed by the cattle as well as other anemometers around the area indicated that this location may have enough wind. Renaissance Engineering & Design put together some reports and preliminary studies that were used to apply for a USDA Feasibility Study Grant which was awarded. The initial project intention was a single 20MW project on the Rainbow Ranch property which included almost 2,000 total acres with one single landowner – Ben Bartlett. The goal was to keep landowner ownership as a unique element and to figure out a way to develop this project with a team approach and the help of local consultants and the USDA assistance.

The company Innovative Energy LLC was created as a development organization and Rainbow Ranch Wind LLC was ultimately created for the project development.

### **Fall 2009 - Tall Tower Anemometer installation**

After notice of the USDA Grant Selection, plans were in process to install a 60m XHD Tall Tower anemometer at Rainbow Ranch near the freeway. Our team knew we needed to get the full year of data through 2010 and that the whole project would converge during the fall of 2010 based on the results of the data from this tower. The key issue was that the Investment Tax Credit at that time required projects to start before the end of 2010 and to finish construction by the end of 2012. Several discussions about the risks of the project included evaluations of the existing PPA rates in fall of 2009 and the potential to secure the turbines at a price that would work and the PPA at a price that could be financed.

### **Spring and Summer 2010 – Data Collection, Contractor Discussions, Equipment Evaluations**

We knew we needed to spend most of 2010 working towards the data collection and analysis and had designed the project Feasibility process with the USDA to be in stages with points along the way where the project was continually evaluated on feasibility and steps ahead. Idaho Power was contacted on May 25<sup>th</sup>, 2010 to basically ask for a draft PPA to do our financial modeling. We were told that the web draft was accessible and that certain steps had to be done for Idaho Power to actually send an “official” draft to someone. Of course since it was a “standard offer” contract, we knew that the terms and conditions are typically not negotiable so any draft at that point was acceptable. The Rainbow Ranch project had applied for a grant with the USDA exactly in step with another project at Murphy Flat in Western Idaho.

In March 2010, the PURPA avoided cost rates had been lowered which we felt might jeopardize our project finance ability, but we felt that we simply did not have enough data or enough progress to try and qualify for a contract under the previous rates. The project team had several discussions about this since the project had been initiated early in 2009, but simply felt that without the confirmation from the tall tower data, unfortunately, the project was in no position to try and defend a position to qualify for a contract under the previous rates. We focused on the steps needed to get to the point that we could start construction by December of 2010 as required by the rules to qualify for the ITC incentive.

We initiated the environmental studies and geotechnical evaluations in the summer and knew that the site conditions would need to be carefully documented. For this location in Cassia County, the project site is approved for a wind project development. Even though this area is specifically zoned for a wind project development, the project team was determined to perform extensive studies and environmental documentation in every way.

We spent the months leading up to August in preparation of the project design and anticipation of a single 20MW project on this Rainbow Ranch property owned by Ben Bartlett. The development was anticipated as a joint project effort by Innovative Energy LLC and our new Idaho development company American Wind Group LLC. When the site layout was explored, it became evident that with the 2000 acres, the site could support two project developments and not just one. Also, with the anticipated transmission line extension and upgrade costs, the ability to develop two projects might prove critical to project financing. From a finance standpoint it also became critically apparent that with the intention to

achieve local equity from Idaho investors and bank financing from local Idaho banks as well as pursue USDA grants and loan guarantees, the projects would absolutely have to be completely separate and file for their own contracts, bank loans, and equity partners.

As we got closer and closer to development and the environmental study results and wind data looked promising, we began to prepare the interconnection applications. We began to explore the development of a first project to be followed by a possible future project. The land was about 2000 acres but had the freeway running right through the property. As we prepared our documents for the interconnection studies with Idaho Power, we realized that the project would likely need to be at least two 20MW projects to effectively deal with the construction expenses which at a minimum included at least 4 miles of transmission line and possibly 8-9 miles to get to the grid depending on the directions.

The site was located outside of Idaho Power's actual service territory even though it is completely within the Idaho Power Control Area. We didn't really understand what that meant at first, but it was explained and emphasized over and over again. The location is rather unique in that it is along the freeway just East of the I-82 and I-84 split just past Burley where the freeway heads East to Pocatello or South to Salt Lake City.

#### **August 2010 – Interconnection Work and Environmental Studies**

The main focus on the project site in August and September was for the environmental studies even though the projects were in a location that did not require a conditional use permit. This is a specific part of Cassia County that is zoned for development of commercial wind farms. The environmental studies to date have included complete surveys of birds, bats, wildlife, and plants. Those studies are intended as a baseline for future environmental activities and studies in conjunction with the wind project developments and anticipated studies to follow after the turbines are installed also.

The company Rainbow Ranch Wind LLC was created on August 23, 2010 for the project ownership company. The company Rainbow West Wind LLC was created simultaneously for ownership of the second project development company. Both companies were created for the project development and each project filed completely separate small generator interconnection applications (SGIAs) on August 23, 2010 with separate fees and documentation.

On August 27<sup>th</sup>, 2010 Idaho Power replied that it was unclear where the projects would connect since the site was not in Idaho Power's territory. On the same day, the projects replied and clarified the interconnection options from the project perspective. The projects also asked for the coordinates of the likely connections. On August 31, 2010, Idaho Power responded that they were not able to provide coordinates but the estimated distances from the site to Idaho Power facilities were between 5 and 9 miles for distribution and transmission facilities.

On August 31, 2010 Idaho Power asked if the intention was to withdraw the applications or pursue them based on the previous correspondence. The projects responded that the intention was to pursue the

applications and have a scoping meeting as soon as possible. On September 8<sup>th</sup>, 2010 after several emails back and forth, the projects further confirmed to Idaho Power that the projects intended to be a Network Resource, NR, and intended that each project would be:

“Rainbow Ranch Wind LLC 20MW PURPA contract QF to IPCO

Rainbow West Wind LLC 20MW PURPA contract QF to IPCO”

On September 14<sup>th</sup>, 2010 Idaho Power sent the acknowledgement letter also dated September 14<sup>th</sup>, 2010 stating that all of the required information and materials were received from the projects for the interconnection applications. That letter was copied to Marc Patterson and also to Randy Allphin. That letter also stated “Since you will have a Power Sales Agreement in place with Idaho Power-Power Supply, this will be handled by the Power Supply Merchant group.”

A scoping meeting was set up ultimately for Friday September 24<sup>th</sup>, 2010. At that meeting with Marc Patterson, the Idaho Power team as well as Brian Jackson and David Warrick several scenarios were presented. The discussions mentioned that the projects could explore multiple connection options at the same time with Idaho Power, BPA, and Raft River and make the decision ultimately based on the results. On Wednesday, September 29<sup>th</sup> a communication from Idaho Power stated that by close of business Friday October 1, 2010 the projects were required to identify and clarify the study information and connection intentions regarding the project status or lose their interconnection position.

On Friday, October 1, 2010 after several discussions with Raft River Rural Electric Cooperative and a personal meeting with Bonneville Power Administration in Vancouver, Washington that week, the projects responded to Idaho Power with three Interconnection options, two of which involved the same line but different paths to get there. On October 6<sup>th</sup>, 2010 Idaho Power questioned whether the projects would be dropping the Idaho Power applications and pursuing the connections through BPA only. The same day, the projects responded immediately that they would intend to pursue and evaluate the direct connection options to Idaho Power and the options of connecting through BPA and/or Raft River. The projects absolutely had no intention of dropping the applications with Idaho Power and responded as such on the same day.

On October 13<sup>th</sup> the projects requested an earliest possible meeting to make sure the studies were on progress with Idaho Power and make sure there were no outstanding confusion issues about the intentions. The projects had never waived from the original intentions from the first scoping meeting, but the points needed to be reinforced. Idaho Power proceeded from that point to follow through with the Feasibility Study as requested and on to the rest of the interconnection study in December after the turbine specific modeling data was provided.

On October 22, 2010 interconnection applications were filed with BPA to evaluate the option of connecting directly to their lines in addition to connections directly to Idaho Power already under study. Those studies are still underway in addition to the ones with Idaho Power.

By October, 2010 enough wind data was available from the towers to perform the required analysis and justify the wind resource for the projects to enable turbine evaluations, negotiations and the turbine selection process. Without the wind data, the turbine manufacturers could not perform the site suitability analysis and verify the expected turbine performance.

### **November 2010 – PPA and Transmission**

On Monday November 1, 2010 a meeting was requested to walk through the Rainbow Ranch projects and discuss progress with Idaho Power in person. That meeting was set up for Thursday after the Wind Working Group meeting on Wednesday. Based on previous discussions, the project team expected that PPA process to take about a month and the projects were ready to get that done before the final push for turbines and financial commitments planned for most of the month of December 2010.

On Wednesday, November 3, 2010 at the Idaho Wind Working Group meeting in Boise, Brian Jackson and Randy Allphin were discussing the wind projects and Brian Jackson emphasized that American Wind Group was completely focused in Idaho only on the Murphy Flat and Rainbow Ranch projects and that the interconnection applications for those projects and studies were all started in August. The Murphy Flat projects are in no way connected to the Rainbow Ranch projects. Randy Allphin pointed out that the Rainbow Ranch projects had not officially requested the PPA and Transmission Study process. Brian Jackson emphasized that they were all in exactly the same situation to qualify by the end of the year for the federal ITC incentives which were crucial to landowner development and ownership business models we were trying to achieve including Idaho investors.

On November 3<sup>rd</sup>, 2010 after the wind working group meeting and discussion, American Wind Group submitted a formalized form of a request document to Idaho Power's Randy Allphin and Michael Darrington including maps, electrical layout drawings, and project descriptions. This was submitted specifically for the Rainbow Ranch Wind Project LLC and separately for the Rainbow West Wind Project LLC. The email stated specifically among other things:

Wednesday November 3<sup>rd</sup> 2010 Confirmation Email: (Identical for Rainbow Ranch Wind and Rainbow West Wind)

---

*"We intend to sign 20 year non-levelized contracts with Idaho Power having a starting on-line date on or before 12-31-2012. We will have to start construction this year and will need to figure out what is required to facilitate the deposit and other contractual requirements on your part and ours. Of course we will have to facilitate all of that and sign the documents before start of construction."*

And:

*"This is located East of Declo and South of Lake Walcott along the freeway as you can see on the informational Maps attached. The project is located more than a mile apart from the other*

*project in the vicinity. This is going to really help the local community and the many contractors involved in the project to keep jobs and the skills we need for the industry in Idaho.”*

*And also:*

*“Please let me know how to proceed. We are looking forward to a very fast, efficient process to get these projects underway. These are excellent projects in many ways. We are adding a research facility at the site to conduct ongoing research into wind integration, energy storage, and wind forecasting with Boise State University and others.*

*I look forward to continuing discussions. I’m glad we were able to talk about this today and look forward to our meeting at 10am tomorrow.”*

---

Thursday, November 4<sup>th</sup> was a significant meeting for all the projects to establish the steps needed to finalize PPAs by the end of the month. The terms and conditions of the draft PPA were discussed for all projects in a joint meeting that included Brian Jackson, Pike Teinert, Randy Allphin, and Michael Darrington. That meeting went through the PPA discussions for the three Murphy Flat Projects and the two Rainbow Ranch projects. At that meeting American Wind Group agreed to fill in the draft blank PPA document terms and conditions to get these done quickly. Again, the need for the projects to finalize the agreements by the end of November was brought up to be able to spend the month of December working on project finance issues to qualify for the ITC. American Wind Group pointed out again that the two methods typically being discussed were to facilitate turbine deposits and/or physically start construction on the project. Our backup plan included showing up to the project with a road construction crew if we had to and to be in “continuous construction” as specified by the ITC rules until project completion if it came down to that. We said that for either case, we had to have the PPA signed or it would be hard to prove that the project really started without a signed PPA and virtually impossible to obtain any financing whatsoever, particularly the turbine deposits. We pointed out that we were in final stages with certain manufacturers and expected to wrap those meetings up over the next few weeks by the first part of December.

On Friday, November 5<sup>th</sup>, 2010 Idaho Power responded to the previous email from November 3<sup>rd</sup> and the meeting discussions on November 4<sup>th</sup> with the Standard PPA, Interconnection and Transmission Process letters and the attached Letter of Understanding for Rainbow Ranch Wind and Rainbow West Wind. The project team wrapped up the week feeling the projects were exactly on track to achieve the PPA by the end of the month as discussed.

On Tuesday, November 9<sup>th</sup> the projects each filed the signed Letter of Understanding and Transmission request documentation which was also acknowledged as having been received by Idaho Power that same day for Rainbow Ranch Wind and Rainbow West Wind.

On the following Thursday, November 11<sup>th</sup> in a discussion with another developer we found out Idaho Power had filed to change the PPA rules at the Idaho PUC the previous week. No one from Idaho Power

had contacted us regarding this November 5<sup>th</sup> filing and we were proceeding as planned and on schedule from our perspective. We really didn't know what to do or how to respond to anyone at that point. Our projects seemed to be in terrible jeopardy after years and months of effort only weeks before we were to be finalizing turbine orders and attempting to be starting construction. We finalized a version of the PPA on Friday November 12<sup>th</sup> signed the agreements and let Peter Richardson submit those to Idaho Power.

On Monday, November 15<sup>th</sup>, 2010 after several phone calls and messages requesting a personal meeting, we sent the MS Word version of our PPA document to Idaho Power with the project information filled in. We requested meetings, but were told that Randy Allphin would be out until after Thanksgiving and perhaps we could meet then. That would put us almost to the end of November at the most critical time after we had completely outlined the project goals and intentions continuously. The email response from Randy Allphin on November 16<sup>th</sup> saying he couldn't meet also had the first mention in any communication from Idaho Power that "If you had not already been made aware, on November 5, 2010 Idaho Power filed a joint petition with the Idaho Public Utilities Commission (IPUC) requesting the IPUC to adjust the published avoided cost rate eligibility cap from 10 aMW to 100 kW in IPUC Case No. GNR-E-10-04. The adjustment requested in this filing could affect your project's eligibility for the published avoided cost rate."

On November 17, 2010, Brian Jackson drafted and sent an extremely long and detailed four page email to Idaho Power which outlined the jeopardy the projects were being placed through these actions by Idaho Power without some solution for the projects. That day Idaho Power's Donovan Walker called and expressed that Idaho Power was proceeding with a few negotiations in spite of the filings and would work with us. He assured Brian Jackson that the standard processes and procedures were still in place until the IPUC made official changes. We were able to set up a meeting for November 19, 2010.

### **November 19<sup>th</sup> Meeting at Idaho Power**

The most significant meeting was held on November 19<sup>th</sup> with Randy Allphin, Michael Darrington and Donovan Walker from Idaho Power. The other participants were Peter Richardson, Brian Jackson, Pike Teinert, and David Warrick from American Wind Group as well as Don Barnhill from Wintercamp Ranch Trust (the landowner partner company in the Murphy Flats projects) and Josh Beardall from Innovative Energy (the landowner partner company in the Rainbow Ranch projects). The meeting went well and the discussions included the exact steps and procedures needed to finalize PPA documents. The formal Transmission System Impact Study Agreements were presented to the Murphy Flat projects for the studies. Don Barnhill signed the agreements and gave Idaho Power a check to proceed immediately. Idaho Power informed the team that the progress was being made on the Rainbow Ranch Wind and Rainbow West Wind initial Transmission capacity evaluations and requests that had been processed.

The project teams spent the following week in Chicago and Los Angeles formalizing the turbine supply negotiations to be able to finish the PPA documentation. Also, the data wind studies and reports were

being continuously updated and contributing to the expected long term energy correlations. Turbine size options and expected performance was critical to completion of the PPA exhibits.

On December 1, 2010 the Transmission System Impact Study agreements were provided to the projects with a letter stating that the signed agreements were required to be turned back into Idaho Power with the \$10,000 deposit requirement by the close of business on December 13, 2010. Due to travel and schedules, the signed System Impact Study Agreement was submitted to Idaho Power in person on December 9<sup>th</sup>, 2010 and the Cashier's Check for the deposit was handed to Idaho Power in person on Monday December 13<sup>th</sup>, 2010.

After the significant November 19<sup>th</sup> meeting at Idaho Power, and despite after having submitted previous draft documents for each project to Idaho Power, an entirely new BLANK PPA was provided to the projects by Idaho Power Company to essentially start over. On December 3<sup>rd</sup>, the filled in document was provided back to Idaho Power with the agreement contacts and specific project items. Of course the agreement itself was not modified, just project details filled in. Over the weekend, the rest of the exhibits were finished and the document submitted to our legal review team on Sunday, December 5<sup>th</sup>. On December 7<sup>th</sup> Tuesday the completed contract agreement from each project was approved and discussed with Idaho Power. On late Wednesday December 8<sup>th</sup> the complete final documents were submitted back from Idaho Power for a final review and approval by the projects. On 8:36 am December 9<sup>th</sup>, our response was that the documents looked great and the request from Brian Jackson emphasized in the email included the following question: "PLEASE LET US KNOW HOW FAST WE CAN SIGN THESE?" At that point the projects were working on financial terms with manufacturers to secure turbine deposits by the end of 2010 and clearly confident that the PPA contracts would be signed by both parties immediately. The American Wind Group team was in Portland that week meeting with potential finance partners and with BPA regarding interconnection progress on the Rainbow Ranch projects. It was pointed out that if Idaho Power called to sign the agreements on Thursday or Friday we would be hopping on a plane to come back and sign them that same day.

### **PPA Signing**

At almost noon, Monday December 13, 2010 we were informed that the final contracts would be available to pick up at 2PM that afternoon and we were asked if we wanted them to be mailed or to pick them up in person. We thought that was a funny request because certainly mailing them at this point would not be reasonable from our perspective. We knew the Idaho PUC had designated the 14<sup>th</sup> as a critical date, but thought since we were signing the documents we were past the critical risks. At this point we were getting nervous but still expected Idaho Power to follow through appropriately as we thought had been the understanding on the November 19<sup>th</sup> meeting. We responded that we would be there at 2pm to sign the documents. The cover letter included with the contracts stated that if we did not return the signed PPAs before Monday December 20<sup>th</sup>, Idaho Power would reserve the right to change the agreements. We thought that was funny because we already had approved them the previous week and at every communication expressed our desire to sign them right away. We took that

as a good intention from Idaho Power that clearly these contracts were now considered final based on the previous week's effort. We also took that to mean that as long as we went ahead and executed these documents, based on the good faith efforts on both sides these would be executed by Idaho Power. Our team included Brian Jackson, Pike Teinert, and David Warrick. The agreements were picked up from Michael Darrington at the front desk of Idaho Power's corporate headquarters. The envelopes included three originals of each of the Rainbow Ranch agreements so there were six 60+/- page documents. (Besides the nine originals for Murphy Flat) The American Wind Group team went to the Owyhee Plaza restaurant and flipped through the documents, signing each original and being careful not to mix them up. We did not get much of a chance to even check the documents or review them, but immediately returned to Idaho Power.

Upon returning to Idaho Power with the signed stack of agreements, we were told by Michael Darrington that Idaho Power would not be signing these agreements or further reviewing them that afternoon. We were informed that they may be signed any time in the next couple days in fact. The team left the Rainbow Ranch documents with Idaho Power and returned the next morning. The agreements had not been signed by late morning and our team asked if there was any way to get the contract agreements signed that day and were told that no one was sure how long it would take to get to them and to submit them to the Idaho PUC. We pointed out that we felt they had been finalized the previous week and all they were waiting for now was a signature by both parties. We left them there, wondering what impact that might have on the agreement approval process. We were confident, however, that our part had been done on the 13<sup>th</sup> as much as possible.

Ultimately, Idaho Power signed the Rainbow Ranch agreements later that day on December 14, 2010 and submitted them for IPUC approval evidently two days later.

## **Conclusion**

The Rainbow Ranch Wind Project was essentially started with the intention of being developed as a PURPA project and selling energy to Idaho Power under a 20 year standard offer PPA in July of 2009 and really quite a bit before that with the USDA grant application earlier that year. In August of 2010, the Rainbow Ranch Wind LLC and the Rainbow West Wind LLC projects were formally in the application process for interconnection with Idaho Power and within a few quick weeks the intention to sign PURPA agreements was formally clarified to Idaho Power interconnection and Power Purchase Teams and verified from Idaho Power's return letter and documentation which was copied to both teams. These projects are the result of years of effort and development. Every effort was made to communicate to Idaho Power that the project timeline and intentions were to execute contracts and start construction by the end of 2010. The term "starting construction" was explained to be the efforts required to qualify for the Federal ITC incentives but the projects needed to have a PPA in order to secure turbine deposits.

Each project has been working on the interconnection and PPA negotiation process throughout the fall of 2010 and also extensively working on project permitting and environmental studies for responsible development. The projects have involved significant local investment from Idaho companies in

consulting, time and effort, and expenses totaling hundreds of thousands of dollars. These projects are committed to provide a long term energy resource to Idaho Power and the contracts were negotiated and signed by both parties in anticipation of the rules and conditions included in the contract agreements which were finalized completely by December 8<sup>th</sup> and executed by Brian Jackson for the projects within hours of their receipt from Idaho Power on December 13<sup>th</sup>.

The Rainbow Ranch location is special for many reasons, but is in a region where the wind is substantial and there is really not much of anything else around. The highest and best use of this land is for a commercial wind project as proposed. The development of this project has been done with local contractors and consultants and in conjunction with the landowner team as an actual development partner.

The intention with this project is to construct a research center facility out of the on-site office complex and provide not only tours and educational venues for local schools, colleges and universities, but also complete research projects and research project venues for ongoing activities that will include key objectives in wind energy forecasting, wind energy integration, energy storage and other generation technologies. Also, ongoing research activities in environmental studies and evaluations are anticipated not only on the site but for surrounding areas and other wind project developments in the region.

The extension of the Federal incentive for project construction was critical for the success of these and other projects that were working diligently to qualify by the end of 2010 but now have until the end of 2011 to start construction. The approval of the project agreements as originally signed and submitted is critical to the success of the projects.

**Attachment 2:**

**November 17, 2010 Email from American Wind Group, Brian Jackson to Idaho Power regarding negotiations.**

## Brian Jackson

---

**From:** Brian Jackson [brian@clever-ideas.com]  
**Sent:** Wednesday, November 17, 2010 3:10 PM  
**To:** 'Allphin, Randy'; 'Walker, Donovan'  
**Cc:** 'Snyder, Carlene'; 'Darrington, Michael'; peter@richardsonandoleary.com; David@AmericanWind.net'; 'Pike Teinert'; dsikes@idahopower.com  
**Subject:** Murphy Flat Wind LLC, Murphy Flat Energy LLC, Murphy Flat Mesa LLC, Rainbow Ranch Wind LLC, Rainbow West Wind LLC - PURPA QF Projects

Randy,

We have been continuously meeting with Idaho Power on almost a weekly basis since the first of August. We have met in the cafeteria, the front lobby, various conference rooms. We have met with the interconnection side at the Plaza multiple times. We have met with Idaho Power and brought various landowner development partners, as well as various people from our American Wind Group team and our finance team to the meetings and discussed interconnections, turbine selections, contracts and agreements. We have met with Gene Fadness and Rick Sterling at the Idaho PUC and discussed these projects. Monday this week I talked with Carlene, and yesterday Tuesday November 16<sup>th</sup> I talked at length with Michael Darrington reflecting that I would really like to negotiate a solution instead of proving our position. I have sent emails every day and each time I have requested a meeting as quickly as possible to discuss the things included in this letter. I am asking Idaho Power to please consider this information and meet with our teams to help resolve this situation.

With Idaho Power we have discussed the three Murphy Flat development projects: (Murphy Flat Wind LLC, Murphy Flat Energy LLC, Murphy Flat Mesa LLC) at length and we have discussed the two Rainbow Ranch development projects (Rainbow Ranch Wind LLC and Rainbow West Wind LLC) as well. Besides our personal discussions on the phone and in person, you were copied in various letters from the Interconnection Applications on every one of these five projects. In every discussion I have been open and honest with you about the need for these projects to converge by the end of the year with signed contracts with Idaho Power to proceed with construction and qualify for the Investment Tax Credit stimulus incentives. I have also told you that these projects were all planned for 2011 construction and in our discussions I also pointed out that they could be delayed and finished by the end of 2012 depending on turbine and equipment supply issues if needed as long as they started this year in 2010. I kept you informed when we passed our planning and zoning permitting for the three projects in Owyhee County and shared that the projects in Cassia County are in a special location that is specifically zoned for a wind project and does not require a Conditional Use permit so that project is ready to proceed as well.

I have agreed with you that the recently negotiated Rockland 80MW PURPA contract was well done and clearly provides a tremendous benefit to Idaho Power and the ratepayers while it also has some benefits to the developer. In October you asked me if I would sign that document and I told you directly and right away that I would sign that for the projects I'm working on under a few circumstances and considered that an option we should discuss. I also pointed out to you that the Murphy projects as an example really needed to be three separate projects for development and financing reasons, not just for the "Standard Offer" contract. The same applies to the Rainbow Ranch projects. In our discussions Wednesday November 3, 2010 after the Wind SAR meeting at the Public Utilities Commission you asked me specifically what other projects I might have or be working on. I told you that the three Murphy Flat projects and the two Rainbow Ranch projects near Raft River were the only projects I was working on in Idaho right now and that all five projects were in the crucial period to start construction and that we needed to finalize contracts with Idaho Power as fast as possible. I explained how INL had helped us with some of the previous data collection over the past couple years and Kurt Myers had helped me with the array layouts, but that we were down to final turbine supply negotiations and felt that was the last variable in our agreements. You clearly agreed with us on the need to move quickly, but left it at that.

Pike Teinert and I met with you and Michael Darrington on Thursday November 4, 2010 at your offices to discuss what needed to be done to finish the negotiations of the PPAs. You had finally sent us the draft PPA Document on Monday

November 1 and we immediately that morning requested a meeting to go over the details. We were told that we could meet Thursday or Friday but you would not have time Monday or Tuesday so we picked Thursday that week as the earliest time you allowed because we had to be in a position to get these contracts done this month.

When we met in your office Thursday November 4, 2010 with you and Michael Darrington as well as myself and Pike Teinert we were completely frank with you and again emphasized that we needed to get these contracts done right away for our projects to move forward this year. We told you we would absolutely send you each of our PPA drafts and comments to the Idaho Power PPA with our project details filled in the following week. You pointed out that would be very important for your legal team to have the information filled in, but that there still could be changes to some language in the contracts from Idaho Power. We had assumed that the contract agreement would look exactly like the previously approved contract, but welcomed your possible edits. You even proposed language and terms that were clearly not part of the standard agreements, we responded that our goal was to sign the same agreement others signed. We told you that the PPAs were the most important part of the project and we would follow through with whatever was required on our part. We also told you that we understood that we would not be able to edit or change the documents, but would sign them as written once the edits were made. You said that it typically takes a couple weeks for those edited versions to come back from your legal department. That is hard to understand since we were agreeing at the meeting that the document would not be materially changed. Our instructions from you on Thursday November 4<sup>th</sup>, 2010 were to fill in the documents and get them back to you to proceed to the next step. Had you stated on Monday when you sent us that draft that you would be repealing it that week, or told us on Thursday that our time was over, we would have dropped everything to finish the negotiations immediately and completely. I told you we were ready and we just needed to formally file things. I certainly could have shown up with signed copies on our meeting the 4<sup>th</sup> if that was our only and last chance. Also, during our meeting on November 4<sup>th</sup> we discussed that we felt the liquidated damages clause was very burdensome and even seemed to be structured to place a huge drain on the project before the financing would normally be available but that we would be prepared to follow through with the liquidated damages deposits when that requirement came. In fact, such a deposit is exactly the kind of burden that creates an advantage for big companies rather than support what PURPA was designed around.

The bottom line is that since we were progressing in our negotiations in good faith on a weekly basis, I had no reason to believe Idaho Power would not follow through with us to the completion in the next couple weeks. The following bullet points summarize some of the key details regarding these projects.

- We have been working two years on these projects and invested hundreds of thousands of dollars of time and expenses. This entire time, everything we have done has been converging on finalizing all of our efforts toward December 2010. What we are doing is developing the projects with local farmers and ranchers as part of the ownership not just the land lease payments. This has been done in other states very successfully and provides tremendous local benefits beyond just the normal developer model. For us this raises the stakes tremendously. We have borrowed money, sold assets and at this point everything we own is tied up in these projects and is at risk. This is not just another project in a developer's portfolio. We don't have other projects, a backup plan or an exit strategy. In some cases farm land is being pledged as collateral for project expenses we are covering. We simply must wrap up an agreement with Idaho Power.
- These five projects are the result of USDA Feasibility Study grants and studies commenced in 2009 and work in each location started originally with 20m anemometers several years before that. The projects are applying for USDA Rural Energy for America REAP grants and loan guarantees. We have had multiple executive meetings with local banks and are securing financing that is only possible with a combination of the available incentives right now. That financing will absolutely work under the terms and conditions of the standard offer contract and will likely work under similar terms and conditions in your current negotiated contract document. These projects include local investors and partners including my family and the local Idaho farm families.
- These projects are scheduled to involve local Idaho Contractors as much as possible. These contractors are struggling and need the jobs and work. Some of them are counting on these projects to help keep them in business this next year. This will provide a boost and skills that are critically needed.

- These projects provide local tax revenue to counties that are desperate for funds. When we talked to the commissioners at Cassia County, they were excited and emphasized that we were welcome and ready to work as quickly as possible and really emphasized that they would like to see local employment. They also emphasized that the sooner we could build and start paying taxes, the better for everyone. At our Planning and Zoning hearing in October for the first commercial wind project in Owyhee County the tax payments were a huge
- These projects capture a resource that is important to the future of our nation.
- In addition to the rural economic benefits we have designed a research center to be built in Owyhee County and Cassia County at the projects for the benefit of everyone involved from the projects, Idaho Power and other utilities, as well as schools and universities. These research centers are included in the planning and zoning permitting already.
- These are much more than just a few PURPA Contracts, I believe these projects are an example and a model to the future of wind in Idaho and America.

You point out that on November 5<sup>th</sup>, the day after we met in your office, Idaho Power filed a petition that may affect our project's eligibility. You also point out in effect that no one at Idaho Power took the time to even send us a notice of the filing. In fact, I found out after I had revised the contract documents per your instructions and was preparing to send them in draft form in the middle of the week. Furthermore, I found that out from a phone call with another developer. That petition cannot be viewed by our projects as anything less than pulling the rug out from under our feet while we thought we were standing there shaking hands. I fully understand and comprehend the conditions and reasons prompting the filing, but I can't help feeling that the timing and work we've done these past four months to come to this point would certainly not have led to this if Idaho Power was going to deny us a contract in the final weeks of negotiation. I am certain that Idaho Power intends that these five projects will follow through and execute either a standard offer contract or a negotiated contract with expediency and integrity. I am certain that these past months of negotiations with Idaho Power, the fact that you knew we were filing documents and spending precious time and resources in final negotiations with financing, turbine orders, equipment and contractor selections, and the face to face discussions we've had will clearly establish our entitlement to the standard offer contract as long as we stand ready to execute it as we stated we were on the 4<sup>th</sup> of November and are again stating that we are at this time. I know you would not have led us down the path, submitted the letters, sent us a draft document, and let us proceed with so many expenses and commitments without an intent to execute an agreement. We made it very clear at the outset that these projects were committed to move forward.

I spent eleven years of my life working for Idaho Power and it was an incredible time. Idaho Power has talented people and it was an honor to work with them. These five projects are designed to help connect what I see as a gap in the industry between the developers and the utilities. I want to help make the connection that will lead to greater understanding of wind energy integration, wind energy forecasting and exploration of energy storage solutions, technologies, and ideas. My goal is to provide extensive data collection and information to Idaho Power in regards to turbine performance, voltage, power factor adjustments and other parameters far beyond the normal data needs.

We are ready to negotiate and need to proceed with the standard offer contract or the negotiated contract immediately. The Idaho Power filing has created shadow of doubt on our position and is now jeopardizing our turbine deposit funds for December. We told you in person that we were meeting with Turbine manufacturers and negotiating final turbine supply agreements and securing turbine deposits which had to be made in December. Those meetings are scheduled for the last days of November 2010. The situation we are now in is pointed out specifically and acknowledged in your email below. As we were finalizing our negotiations and way past the point of no return, in fact the day after our meeting in person where we were instructed to return our "draft comments and information" Idaho Power made a filing that as you state "The adjustment requested in this filing could affect your project's eligibility for the published avoided cost rate." I would re-phrase that a bit and perhaps say it this way myself:

"The filing made by Idaho Power during a crucial stage of project negotiations for Murphy Flat Wind LLC, Murphy Flat Energy LLC, Murphy Flat Mesa LLC, Rainbow Ranch Wind LLC, and Rainbow West Wind LLC have created a situation which places these five Idaho projects in jeopardy. The issues will likely be settled in the coming months, but the confusion over contract terms and conditions may stall turbine deposit funds scheduled for early December 2010. Those deposits are crucial for qualifying for the 30% Federal Investment Tax incentive that will pay back over \$60M in project development costs after construction is completed. This particular incentive is only available for projects that can start substantial construction in 2010. All five projects have been succeeding on crucial milestones during the past year to qualify just in time for the end of the year. These projects may have to cancel construction bids and negotiations involving tens of millions of dollars for Idaho Contractors and local economies. Idaho Power is required to purchase the energy from these projects according Federal Law, but stopping the negotiations at the most critical final stage may close the window of opportunity for these particular developments. The research facilities that were to be installed as part of the operations offices to provide education and jobs in Owyhee County and Cassia County may not be built as part of these projects. The programs at these wind project research centers for BSU, ISU, College of Southern Idaho and other education facilities for Engineering, Technical Training, and Environmental Studies and more are also now at risk."

There is a better story of course and that is why I'm writing this letter. We need to solve this right away in some manner that leads to success for Idaho Power and for the projects. I believe there is no situation based on the negotiations up to this point that these projects would not qualify or finally succeed in getting a Standard Offer Contract. However, I remain willing to have a very serious discussion right away about the negotiated contracts as you mention in this email and as you and I have talked about this past month several times. I want to find a solution where everyone wins, however, the only way we can do that is to meet very quickly to see if Idaho Power will follow through – and if we can come to an agreement very quickly. I understand you are out of the office this week and next as you state. Unfortunately the filing Idaho Power made creates a time frame that "is what it is". Each day I have tried to meet with Idaho Power this week and we need to have these discussions right away before I finalize the turbine supply agreements, terms and conditions with our manufacturers.

I called your office and Michael Darrington on Monday, but was at least able to explain many of these things to Carlene Snyder and asked that she relay the message to you and Michael Darrington. I called Michael yesterday and also repeated much of this, but felt I needed to really explain our situation and ask that Idaho Power respond and work with us this week on this matter. Please tell me if there is a way to meet with the Idaho Power Team on Thursday or Friday or even later today if that is what it takes. I can take the 10minute data from each project site and convert that to an hourly generation estimate so you can immediately model that as you suggest – we have that data.

What I need more than anything is to discuss the terms and conditions under which our projects could sign a negotiated contract agreement and really cannot afford to wait and have that discussion the first week of December. This is my best effort at clarifying our position right now in the hopes that a little more discussion here can lead to the meeting we need this week. The timing for us right now is crucial and we really want to come to an agreement instead of pursue the path of complaining formally and informally as well as documenting all kinds of meetings and notes. We have all seen that before and what I am asking for all of our benefit is to find a different solution.

I need to either negotiate and sign a PPA right away (which we are prepared to do) or a letter from Idaho Power indicating that they will indeed negotiate in good faith and intend to execute a PPA with these projects in the next two weeks. My intention was to discuss this more in person than in a letter, but perhaps this will help us get there too.

Brian

**Brian D. Jackson, PE, MBA, CEM President**

**American Wind Group LLC  
Renaissance Engineering & Design PLLC**

2792 Desert Wind Rd, Oasis, Idaho 83647-5020  
P: (208) 859-1882  
[Brian@Clever-Ideas.com](mailto:Brian@Clever-Ideas.com)  
[www.Clever-Ideas.com](http://www.Clever-Ideas.com)



**RENAISSANCE  
Engineering & Design**

CONFIDENTIALITY NOTICE: The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

---

**From:** Allphin, Randy [mailto:RAllphin@idahopower.com]  
**Sent:** Tuesday, November 16, 2010 2:16 PM  
**To:** 'Brian Jackson'; Walker, Donovan  
**Cc:** Snyder, Carlene; Darrington, Michael  
**Subject:** RE: PPA Word Document Murphy Flat Mesa QF Project

Brian,

I would be happy to meet with and discuss your issues, however, I am currently out of town on work related matters this week, and will be out of town on personal matters until after Thanksgiving. I will be happy to meet with you when I return. If you had not already been made aware, on November 5, 2010 Idaho Power filed a joint petition with the Idaho Public Utilities Commission (IPUC) requesting the IPUC to adjust the published avoided cost rate eligibility cap from 10 aMW to 100 kW in IPUC Case No. GNR-E-10-04. The adjustment requested in this filing could affect your project's eligibility for the published avoided cost rate. However, it will not preclude your project from negotiating a purchase power agreement with Idaho Power. If you wish to pursue an individually negotiated rate PURPA contract, the first step is to start the modeling process to develop the energy prices for your specific projects. To do that we will need a good estimate of the actual hourly generation from your proposed projects for at least a one year period. If you can provide this data we can get the models running right away. If you wish to go in a different direction please let me know.

Randy

---

**From:** Brian Jackson [mailto:brian@clever-ideas.com]  
**Sent:** Tuesday, November 16, 2010 8:39 AM  
**To:** Allphin, Randy; Walker, Donovan  
**Cc:** Snyder, Carlene; Darrington, Michael  
**Subject:** RE: PPA Word Document Murphy Flat Mesa QF Project

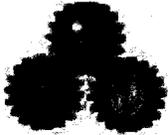
Thanks Randy,

I would like to meet with Idaho Power at your earliest convenience this morning or this afternoon to work on solutions rather than complaints. You and I have talked about most of the details and issues and I believe we could work out a solution right away for my clients' projects.

I know small edits can take a few days sometimes so I really wanted to have the discussions today if at all possible.

Brian

*Brian D. Jackson, PE, MBA, CEM President*  
Renaissance Engineering & Design PLLC  
2792 Desert Wind Rd, Oasis, Idaho 83647-5020  
P: (208) 859-1882  
[Brian@Clever-Ideas.com](mailto:Brian@Clever-Ideas.com)  
[www.Clever-Ideas.com](http://www.Clever-Ideas.com)



**RENAISSANCE**  
Engineering & Design

CONFIDENTIALITY NOTICE: The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

---

**From:** Allphin, Randy [mailto:RAllphin@idahopower.com]  
**Sent:** Monday, November 15, 2010 2:18 PM  
**To:** 'Brian Jackson'  
**Cc:** Snyder, Carlene; Darrington, Michael; Walker, Donovan  
**Subject:** RE: PPA Word Document Murphy Flat Mesa QF Project

Brian, I tried to call you and your voice message inbox is full and would not let me leave you a message.

I received word that you wanted to discuss negotiating agreements, we would be glad to discuss this. I am out of town and will try to call you again tomorrow. If you need immediate answers to your questions please call Donovan Walker.

Randy



This transmission may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you.

---