



## Renewable Energy Application Process in the Southern Nevada District Frequently Asked Questions

**Q - What is the method for determining project priority? For instance, if one ‘Medium Priority’ criteria is present, is it automatically deemed a medium priority project? Or is it a judgement call by the Field Manager and District Manager?**

**A -** Southern Nevada District developed the priority process to clearly implement regulations and document the decision-making process.

For many projects, varying priority levels could be selected within different sections of the prioritization worksheet. Each section is initially evaluated on its own merits by determining if criteria is met and staff provides an explanation of how each is met. If a project includes multiple priority levels, the Field and District Manager have discretion to consider all the information in the worksheet to make the final determination regarding an application’s priority level. The manager’s justification will explain how the final determination was made.

This policy also considers how the situation in Southern Nevada affects the priority levels in the regulations. For example, the regulations state a “No Surface Occupancy” for oil and gas would be a low priority. The Southern Nevada District’s Resource Management Plan states that all lands in Southern Nevada are “No Surface Occupancy” for oil and gas development, so BLM does not take that into consideration.

Another example of a Southern Nevada District-specific situation is that one of the priority factors is if lands located in a disposal boundary. BLM requests that applicants coordinate with local governments to ensure the proposed project is compliant with their land use plans as these disposal boundaries are in direct conflict with developing renewable energy in those areas.

**Q - Why can’t an applicant ask for approval of study protocols, consultants, or anything else until BLM has prioritized the project? How can we move forward effectively without this contact?**

**A -** One of the primary purposes of the prioritization process is to focus staff time on projects that have fewer resource conflicts. BLM can’t do this if staff is getting pulled off high priority projects to provide inventory protocols, approve botanists for sensitive plant surveys, provide fieldwork authorizations, or review inventory reports for projects are not a high priority. The process allows BLM to ensure that the projects with fewer resource conflicts and a higher likelihood of success in the permitting process are prioritized.

BLM understands that applicants want to do these studies to provide more detailed information regarding potential resource conflicts associated with the proposed project. BLM appreciates that applicants have financial investments in proposed projects and are working to secure funding streams and power purchase agreements. Please remember the prioritization process is not intended to be an impact analysis; it is intended to be a tool to help BLM identify those projects with the potential for fewer resource conflicts.

Q - If/when an application package is submitted, what is the anticipated amount of time of when a project's priority level will be assessed? When will I find out what priority my application has been assigned?

A - The Southern Nevada District has committed to prioritizing the applications currently on file and notifying applicants of their priority level within the next 90 days. Applicants who have submitted applications should expect this notification by the end of July 2020.

For new applications, the answer to this question will depend of several variables including whether the application package is complete. Once an application has been determined complete, then the prioritization process can take place. The Southern Nevada District is committed to prioritizing these applications as time and resources allow. This is largely dependent on the availability of the staff specialists based on other district, state and national priorities. This is critical because the process requires a team of resource specialists to review the proposed project and provide input for the various criteria and documenting this information in the Southern Nevada District Renewable Energy Project Priority Determination Worksheet. In most cases, this will be done by each specialist as a desktop exercise; however, a small amount of fieldwork may be necessary. Once the information is provided in the worksheet by the staff specialists, the BLM manager will review the worksheet and decide the application's priority level.

Once the manager makes the determination of the application's priority, an official letter will be sent which will also include information about the steps necessary to appeal the decision.

Q - Regarding the IM-2020-001, if multiple conflicts exist, will one conflict be given preference over another (i.e. desert tortoise habitat vs. off-highway vehicle use, etc.)

A - All resource conflicts will be considered collectively during the evaluation process by the BLM ID Team and will be taken into consideration during the prioritization process. Please remember this is not a NEPA process where conflicts are resolved or mitigation measures are put in place to reduce the impacts. During prioritization, BLM gathers information to make a determination of the level of complexity and resource conflicts to determine if the project has a high likelihood of success.

Q - Regarding the IM-2020-001, has a 'buffer' been established that would be considered an adequate distance from potential conflicts and/or Wilderness Areas, Wilderness Study Areas, Conservation Areas, ACECs, etc.?

A - The only established buffer in the Southern Nevada District is related to the Old Spanish National Historic Trail. This trail was established after the Southern Nevada District's Resource Management Plan was signed therefore it does not identify a formal management corridor. In these circumstances, BLM policy states that the area to be included is anything within the viewshed of the Congressionally designated route. The area recommended by the National Park Service for this analysis of impacts is five miles from the centerline of the designated route of the trail.

No formal buffers have been established for other special destination units. Each designated unit - ACEC, Wilderness area, Wilderness Study Area, or National Conservation Area - was designated for its own unique characteristics and impacts to these would have to be determined on a case-by-case basis. BLM will identify the presence of these units during the two pre-application meetings and what the potential impacts could be. If BLM determines that a project is adjacent or near a designated area, it will likely increase the complexity of the project and have the potential to lower the priority level. The importance of the proximity will vary depending

on the specific area's topography, sensitive viewsheds, specific resource concerns and the characteristics of the project being proposed.

**Q - If I disagree with the prioritization, how do I appeal?**

A - Anyone who is affected by and does not agree with an agency's final decision can appeal to the Interior Board of Land Appeals. For further information on filing an appeal with the Board, consult 43 C.F.R. §§ 4.410-4.413.

The prioritization level for each application will be sent to the applicant in a formal letter. This decision is an appealable decision and the letter will contain information about the appeal process and requirements.

**Q - How do prioritizations happen within priority levels?**

A - Once BLM has determined to begin working on a new project, a number of factors will be used to determine which project will be initiated. These include, but are not but not limited to, the date the application was determined to have adequate information to complete the prioritization, any remaining conflicts that still have to be addressed, other large-scale projects being processed in the same area, etc.

If there is more than one application in the same area, BLM will determine if a competitive process is warranted and could take into consideration competition as a factor to begin working on a project in a specific area.

**Q - When do you estimate that processing will begin on high priority projects?**

A - BLM is currently reviewing all applications for priority level and hopes to have all the applications prioritized within the next 90 days. Once that is complete, BLM will have better idea of where the high priority projects are and whether competition is warranted. BLM still needs to complete commitments made to existing approved projects such as the Dry Lake Solar Energy Zone, complete the process to start offering parcels in the Dry Lake East Designated Leasing Area and complete the NEPA for projects already initiated. BLM will determine which of the high priority projects could begin the variance process once all the prioritizations are complete. This would allow the identified project to start collecting data, conduct surveys, conduct the required public meetings, etc.

**Q - What is the most common mistake applicants make that could remedy any potential delays?**

A - The primary mistake is applicants not providing the required/requested information when the application is initially submitted. The information obtained during the two pre-application meetings will assist in providing the information necessary to process the application.

Other common issues include:

- not completely filling out and signing the SF299
- not providing the required Application Filing Fee
- inconsistencies between the plan of development, the application and maps

**Q - How does prioritization impact FAST 41 requests? If projects are on the FAST41 list, are they automatically prioritized and exempt from this prioritization process?**

A - FAST 41 status for projects in variance areas should not be requested until the BLM has notified the applicant that it is ready to initiate the Notice of Intent for the Environmental Impact Statement.

In accordance with policy, BLM must complete a thorough evaluation of each application based on the information provided by an applicant and the input of Federal, State, and local government agencies, tribes and the public. BLM will then determine whether it is appropriate to continue to process, or to deny a right-of-way application submitted through the variance process. To ensure a consistent application of the process, all applications in variance areas that are determined to be appropriate for continued processing will be submitted by the BLM State Director to the BLM Director for concurrence. Until the determination to continue to process an application obtains concurrence by the BLM Director, a project is not ready for NEPA analysis nor requesting FAST-41 covered status.

Q - How can the BLM and the project ensure the BLM will have the ground-truthed information it needs to be able to assess prioritization if it will not review study proposals?

A - The district specialists working on the prioritization process have experience in assessing impacts to resources by various types of projects in Southern Nevada. In addition to their professional experience, they have access to other professionals, information from previous authorizations in the same area and geographic data related to the presence of various resources located throughout Southern Nevada. They also have knowledge of other land use allocations that will affect a project application. These specialists make recommendations to the authorized officer based on their knowledge, network contacts and experience as to whether a resource has the potential to be present and what impacts can be anticipated by proposed projects.

BLM understands the potential issues associated with this initial prioritization and that site-specific inventory data may prove that BLM's initial assumptions were incorrect. However, please remember the prioritization process is not intended to be an impact analysis, it is intended to be a tool to help identify projects with the potential for fewer resource conflicts.

Q - Please provide a timeframe for all steps shown in the flow chart on slide 3

A - After BLM has completed prioritizing existing applications, the flowchart will be revised to provide estimated timeframes for the steps for new applications and will be published on the website.

Q - When do you decide you have enough information on currently considered projects that want to move forward so that you can prioritize them? Will you have "queue clusters"? How do you decide which projects are in each queue?

A - Once BLM has determined that it is prepared to begin working on a new project, a number of factors will be used to determine which project will be initiated and the order applications of the same priority level will be processed. These factors will include, but are not limited to, the date an application was determined to have adequate information to complete the prioritization, any remaining conflicts that still have to be addressed, other large-scale projects being processed in the same area, etc.

Q - When will existing serialized applications receive prioritization dates? Are they considered higher priority than those that are not serialized?

A - BLM has assigned serial numbers to all applications. The Southern Nevada District has committed to prioritizing these applications and notifying the applicant of their priority level within the next 90-days. Applicants who have submitted applications should expect this notification by the end of July 2020.

Q - What is the process and timing for each step associated with “re-prioritization” and how do multiple projects with re-prioritization data coming in drive timing?

A - BLM will determine if a new prioritization is necessary and will follow the same process as the original prioritization. Any requests for re-prioritization will not be processed until after the initial prioritization of all existing applications is complete. If multiple requests to re-prioritize projects are received, they will be processed in the order in which they are received.

Q - How many active solar applications, with companies conducting studies and submitting them to BLM, does the Las Vegas Office have at this time?

A - The Southern Nevada District currently has 11 applications. Not all applicants are working on surveys, but a number are gathering survey data and applying to conduct geo-tech. BLM also discusses proposed projects with applicants going through the pre-application process.

There are also a number of authorized projects that still require work from the BLM in order to approve the notices to proceed and construction.

There are also two EISs in process that are actively being worked on. BLM is also supporting projects on the Moapa River Indian Reservation, including issuing rights-of-ways for transmission.

In addition, BLM will begin initiating steps to make the Dry Lake East Designated Leasing Area available for bid.

Q - How are grandfathered projects (aka pre-PEIS) prioritized?

A - Projects that are considered pending under the Solar Programmatic Environmental Impact Statement are subject to the current regulations and policies, including the prioritization process. These projects are going through the same process as all of the other applications in the district.

Q - Please confirm that you want confirmation in writing from the local jurisdiction that they support the project. Is that an email? A letter?

A - The variance process requires coordination with local governmental entities and this a key part of the pre-application process. If support or a statement of non-objection is provided by the local entity, BLM requests this in writing. An email is sufficient at this stage in the process.

Q - Local government makes decisions in public meetings by the Board of County Commission. What would you like to see from the County? approved applications? Letter to BLM from County? ETC?

A - At this point in the process, information BLM requests from local governments is a primary point of contact that BLM can send these renewable energy applicants to as well as a high level determination if the project as proposed is compatible with local government’s development or conservation plans.

Q - What is the Las Vegas Field Office doing to ensure staffing/resources are sufficient to move this prioritization process forward?

A - The Southern Nevada District Office has received approval to hire permanent staff for the Renewable Energy Team. The Biologist has been advertised and has a start date of June 7. A permanent Realty Specialist has been with the team for the past couple months. Other positions are in various stages of advertisement,

selection, etc. Having a full team will greatly assist in moving the process along; however, the team is not self contained and a number of resource staff from the Las Vegas and Pahrump Field Offices still need to provide support.

Further, the Southern Nevada District has committed to prioritizing these applications and notifying the applicant of their priority level within the next 90-days. Applicants who have submitted applications should expect this notification by the end of July 2020.

Q - Four NGO's, Defenders of Wildlife, Nature Conservancy, the Wilderness Society and NRDC, have requested 3 new solar zones in Southern Nevada. One surrounds private properties in Amargosa Valley. Is BLM going to create new Solar Energy Zones and will BLM actually talk to the residents of Amargosa Valley before doing so?

A - The Southern Nevada District has received a request for three new Designated Leasing Areas in Southern Nevada. In order to establish these areas as Designated Leasing Areas, the BLM would need to amend the Southern Nevada District's Resource Management Plan. This Land Use Plan Amendment would require a substantial amount of public involvement to ensure that any concerns of residents that would be impacted by the decision are taken into account.

Q - BLM was going to write an Environmental Assessment for solar projects on variance lands, but told me it was cancelled due to lack of funding. Are there plans to revise this idea?

A - BLM does not have any plans at this point to revive this project.

Q - Can we request that the BLM hold off on some of these destructive solar projects until the Southern Nevada Resource Plan is revised?

A - The BLM is not actively revising Resource Management Plan at this time. The solar projects will be processed in accordance with the current Resource Management Plan allocations and the regulations.

Q - Covid-19 has prevented at least one person I know from attending this workshop. Can you please hold another like this in 30 days?

A - BLM asks participants on these calls to please have those that they know that fall into this unfortunate circumstance to please reach out to Kirsten Cannon at [k1cannon@blm.gov](mailto:k1cannon@blm.gov). BLM will provide access to the materials from these meetings and gauge the need to have another workshop at a later date.

Q - How many renewable energy applications does your office believe can be processed at one time while maintaining the required timelines to process EISs?

A - The Southern Nevada District is currently processing two Environmental Impact Statement-level solar applications as well as continuing to process the needs of other previously authorized projects in the Dry Lake Solar Energy Zone. At this point, this workload is stretching BLM staff. That being said, as the Energy and Infrastructure Team is built up and the prioritization process is fully functioning, BLM hopes to be able to increase the processing capacity.



Q - Regarding the competitive variance process, if/when two or more competing applications or expressions of interest, will the competitive variance areas go through the same prioritization process outlined in the IM?

A - Each application will go through a separate prioritization process. This process will help BLM determine if a competitive variance process is appropriate.

Q - Per the IM, “the Solar and Wind Rule provides BLM broad discretion to utilize a competitive process when issuing rights-of-way for solar projects on variance lands, including by doing so on BLM’s own initiative.” Will the BLM provide public notification if there will be a competitive variance process?

A - Public notification of a competitive variance process is required. This will be done through a Federal Register Notice in accordance with the policy outlined in 43 CFR 2804.30.

Q - Grandfathered applications seem to be a way that BLM avoids the Variance Process. Can BLM cancel these applications after 5 years if they do not see any activity? It appears that much of the public land in Southern Nevada has some old solar application from 2008. At what point does BLM say they must start the process over? Can we request that applications over 5 years old be cancelled and Variance be started over?

A - Applications considered pending under the Programmatic Solar Environmental Impact Statement are not subject to the decisions made in the Environmental Impact Statement, i.e. the variance process. These pending applications are subject to new regulations and policy, and therefore will be prioritized.

BLM cannot simply cancel applications. The regulations found in 43 CFR 2804.26 outline the circumstances that allow for BLM to deny an application.

Q - I once requested a variance meeting for a project on BLM lands that was not grandfathered. I was told BLM just doesn't have to do that. Can we make that a more standard process?

A – The Programmatic Solar Environmental Impact Statement lays out the steps that are necessary to complete the variance process. The Final Wind and Solar Rule codified much of the variance process into the regulations found at 43 CFR 2804.25. Part of the variance process and the regulations require a public meeting to be held in the affected area of the project. This meeting will be held once the BLM has notified you that we are ready to begin processing your application through the variance process. Before BLM has notified you that we are ready to begin processing your application, we are unable to dedicate the staff required to hold these public meetings.

Q - Can you give an update on the status of upcoming leasing in the Dry Lake East DLA?

A - The Southern Nevada District is taking steps to ensure that the Dry Lake East Designated Leasing Area is processed in accordance with established laws, regulations and policies. The process to establish a Designated Leasing Area and getting it set up for competitive leasing takes time and several levels of approval prior to moving forward. This is one of the highest priorities for the district as BLM moves forward with the renewable energy program in Southern Nevada.

Q - How do applicants determine which local governments they need to seek support / non-opposition from? Is it the local government of the nearest city?

A - The BLM will provide applicants with contacts for the local governments that they need to coordinate with. This is the primary purpose of the second pre-application meeting. For projects that have already submitted applications, please reach out to the Southern Nevada District's Energy and Infrastructure Project Manager to get this information.

Q - Who is the local government contact in Clark County that communicates with applicants about the compatibility of their projects with local government plans?

A - The BLM will provide applicants with contacts for the local governments that they need to coordinate with. This is the primary purpose of the second pre-application meeting. For projects that have already submitted applications, please reach out to the Southern Nevada District's Energy and Infrastructure Project Manager to get this information.

Q - Is the same representative from local government assigned to all of the renewable energy applications in Clark County?

A - This will be a determination made by Clark County.

Q - Will the Amargosa Solar Energy Zone have double priority, and can you please explain that?

A - The BLM defined Solar Energy Zones as areas well suited for utility-scale production of solar energy and determined where the BLM will prioritize solar energy and associated transmission infrastructure development. The Dry Lake Solar Energy Zone does not have any remaining space for development. There are developable lands within the Amargosa Solar Energy Zone; however, at this time, there are no applications within the area. Given the national priority to focus development in these Solar Energy Zones, all applications for development within an established Solar Energy Zone will be prioritized and processed ahead of any application in variance lands regardless of a projects priority level assuming that a project has not started NEPA analysis.

Q - Are all variance lands in Clark County subject to competitive lease? Also, once the land is subject to competitive lease, what is the notification process? Is there a mailing list or website where the lands subject to competitive lease are made public?

A - No, variance lands are not all subject to competitive lease. Only lands within Designated Leasing Areas would be subject to competitive lease.

BLM does have the discretion to use a competitive process if there are two or more competing applications for the same area. Lands outside Designated Leasing Areas may be made available for solar and wind energy applications through a competitive application process established by the BLM under 43 CFR 2804.30. If BLM determines that competition exists, the procedures for a competitive bid will be announced in the Federal Register. BLM may also provide notice by other methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the internet.

The BLM will not competitively offer lands where it has accepted an application and received a plan of development and cost recovery agreement.



Q - Is BLM using the prioritization process to slow the development of renewable energy in Southern Nevada?

A – No. The Southern Nevada District implemented the prioritization process to encourage applicants to look for opportunities in areas that have fewer resource conflicts. BLM policy requires balanced development of public lands and the use of resources with habitat and resource conservation needs. This multiple-use mandate is the primary driver of focusing BLM staff and energy on projects with fewer resource conflicts.