

Appendix 2. Determination of NEPA Adequacy

The Bureau of Land Management (BLM) is using this Determination of National Environmental Policy Act (NEPA) Adequacy (DNA) Worksheet to evaluate new circumstances, textual changes in the Final Environmental Impact Statement (FEIS), corrections to specific data, errors, omissions, and any additional information that may have become available or that requires clarification, subsequent to publication of the FEIS for the Genesis Solar Energy Project (GSEP) to determine whether or not supplemental NEPA analysis is required in conformance with the Council of Environmental Quality regulations found under 1502.9. Use of the DNA Worksheet for this purpose is consistent with guidance in Section 5.1 of the Bureau of Land Management's (BLM) NEPA Handbook (H-1790-1, 2008).

1.0 Description of the Proposed Action

1.1 Background

Genesis Solar, LLC, a wholly owned subsidiary of NextEra Energy Resources, LLC, submitted a right-of-way (ROW) application to the BLM to construct and operate a concentrated solar parabolic trough power plant facility on federal public lands in Riverside County, California. The proposed 4,640-acre site is located approximately 25 miles west of the city of Blythe and five miles north of the Interstate-10 freeway. On August 31, 2009, Genesis Solar LLC submitted an Application for Certification (AFC) to the California Energy Commission (CEC) to construct and operate the GSEP.

1.2 Proposed Action

The FEIS Proposed Action is to authorize the construction, operation, maintenance, and decommissioning of a nominal 250-megawatt (MW), 4,640-acre solar energy facility on BLM-administered land. The proposed project would permanently disturb about 1,746 acres. The GSEP would include the construction and operation of two adjacent, independent power block units of 125 MW nominal capacity each, which would be constructed in two phases. The project would use parabolic trough technology and include a number of related facilities on the project site, including an administration building, parking area, maintenance building, switchyard, two evaporation ponds, surface water control facilities, access and maintenance roads (dirt, gravel or paved), perimeter fencing, central gas pipeline, a distribution line, fiber optics line, water wells, and temporary construction laydown areas. The term of the proposed ROW grant is 30 years.

1.3 CDCA Plan Amendment

The BLM is also considering amending the California Desert Conservation Area (CDCA) Plan to accommodate a solar power project on the project site. The CDCA Plan, while recognizing the potential compatibility of solar generation facilities on public lands, requires that all sites associated with power generation or transmission not specifically identified in that land use plan be considered through the plan amendment process. If the BLM decides to approve the ROW grant, the BLM will also amend the CDCA Plan as required.

1.4 Environmental Documentation

Pursuant to a 2007 Memorandum of Understanding (MOU) between the California BLM and the CEC to conduct joint environmental review of solar thermal projects that are proposed on BLM-managed federal land, the CEC and BLM conducted a joint federal-state environmental analysis review of the GSEP. The joint SA/DEIS Notice of Availability (NOA) was published in the *Federal Register* on March 26, 2010. Subsequent to release of the SA/DEIS, the BLM and CEC decided to each prepare independent subsequent environmental documents, while continuing to coordinate and cooperate in these efforts. The Environmental Protection Agency published a notice of the availability of the Final EIS (FEIS) on August 27, 2010, and the BLM published its own on August 30. The CEC published a Revised Staff Assessment (RSA) on June 11, 2010, and a supplement to the RSA on July 2, 2010.

Under the FEIS analysis, the Proposed Action is to authorize the construction, operation, maintenance, and decommissioning of a 1,746-acre solar electric-generating facility, as proposed in Genesis Solar LLC's application; and to approve a CDCA Plan amendment in response to the application. The FEIS action alternatives include (1) the Proposed Action (as described above); (2) a Dry-Cooling Alternative, a 1,746 acres project with fewer impacts to water resources; and (3) a Reduced Acreage Alternative, a 125 MW, 950-acre project.

In addition, the FEIS evaluated a No Action Alternative denying Genesis Solar LLC use of the lands under application, and two other No Action Alternatives including a land use plan amendment that would both deny the proposed GSEP, and would amend the CDCA Plan to either 1) approve the project site for future solar development or 2) prohibit future solar development on the project site.

The FEIS identified the Dry-Cooling Alternative as the Agency Preferred Alternative.

1.5 Post-FEIS Information

Since the BLM's publication of the PA/FEIS, a number of errors, omissions, and points of clarification have been discovered in the document. The following is a list of those issues and how they've been addressed:

Acres Disturbed. The PA/FEIS (e.g. Table 2-1) identified the approximate permanent disturbance of the Dry Cooling Alternative (BLM's Preferred Alternative) to be 1,746 acres. This is the accurate acreage that the Selected Alternative will permanently disturb. However, the area included in the final ROW grant is larger– 1,949.53 acres. This increase in acreage accounts for extra area in the linear corridor between facilities that cannot be excluded from the ROW grant, but will not be disturbed.

Secondary Fire Road. The PA/FEIS discusses a secondary access road in Sections 4.17, Vegetative Resources, 4.21, Wildlife Resources, and in response to comment 6-060. This road will not be built. The secondary access road was originally a requirement of Riverside County Fire. However, Riverside County Fire has determined that a separate road need not be constructed for secondary fire access to the project area.

Noise Balancing. The PA/FEIS refers to the Applicant's plans to "avoid the creation of annoying tonal (pure-tone) noises by balancing noise emissions of various power plant features during plant design." This is incorrect. Due to the lack of nearby noise receptors, there will be no adverse impacts related to tonal noise (see PA/FEIS Section 4.9); therefore, a "balance" of power plant noise emissions will not be required.

Evaporation Ponds. Page 2-3, 2-21, and 2-22 state that the Proposed Action would include two evaporation ponds up to 30 acres each for a total of 60 acres. This has been changed. The two ponds will be five acres each, for a total of 10 acres.

The following are clarifications to mitigation measures that were described incorrectly in the PA/FEIS.

Playa Impacts. Tables 4.17-3 and 4.21-1 of the PA/FEIS identified 151 acres of indirectly impacted playa and sand drifts over playa. That part of the anticipated project area is not in the Selected Alternative; therefore, there will be no impacts to that area.

2.0 Land Use Plan (LUP) Conformance

California Desert Conservation Area Plan Date Approved 1980, as amended

Northern & Eastern Colorado Desert Coordinated Management

Plan (NECO) (amendment to the CDCA Plan) Date Approved December 2002

BLM lands in the CDD are governed by the CDCA Plan. The CDCA Plan, while recognizing the potential compatibility of solar generation facilities on public lands, requires that all sites associated with power generation or transmission not specifically identified in the CDCA Plan be considered through the Plan Amendment process.

The GSEP site is in the Multiple-Use Class Moderate (MUC M) designation in the CDCA Plan. That classification is intended to provide a controlled balance between higher intensity use and protection of public lands. Public lands classified as Moderate Use provide for a wide variety of present and future uses such as mining, livestock grazing, recreation, energy, and utility development. Class M management is also designed to conserve desert resources and to mitigate damage to those resources which permitted uses may cause. The construction and operation of a solar generating project on the GSEP site would require the BLM to amend the CDCA Plan to allow wind/solar energy generating activities in MUC M on the GSEP site.

Based on Table 1, Multiple Use Class Guidelines, in the CDCA Plan, Electrical Generation Facilities, wind/solar use types are conditionally allowed in the MUC M designation contingent on NEPA requirements being met for the proposed use. As noted above, Chapter 3, "Energy Production and Utility Corridors Element" of the CDCA Plan specifically requires that new proposed power facilities not already identified in the Plan be considered through the Plan Amendment process. The GSEP site is not currently identified as a solar site in the CDCA Plan and, therefore, a Plan Amendment is required to include the site with solar uses as a recognized element within that Plan.

Under Federal law, the BLM is responsible for processing requests for ROW grant applications to authorize proposed projects such as renewable energy projects, transmission lines, and other appurtenant facilities on land it manages. Because the GSEP is a privately initiated venture that would be sited on lands managed by the BLM, the project applicant has applied for a ROW grant from BLM pursuant to United States Department of the Interior (DOI) regulations. If the ROW grant is approved by BLM, it will have conditions based on the Final EIS, the Record of Decision (ROD), and other Federal rules and regulations applicable to Federal lands. The applicant would then be able to construct and operate the proposed GSEP on the project site.

The approval of the CDCA Plan amendment and the ROW grant application by the BLM, for the GSEP and the project site would be authorized in accordance with Title V of the Federal Land and Management Policy Act (FLMPA of 1976), and 43 Code of Federal Regulations (CFR) Parts 1600 and 2800.

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

The 250 MW project and the other build alternatives would conform to the CDCA Plan through the prescribed NEPA compliance, the CDCA Plan amendment process, and the ROW grant application process. The CDCA Plan recognized the potential for future renewable energy development in the CDD. The CDCA Plan requires that site specific location identification occur for solar energy uses through the Plan amendment process. The 250 MW project and all the other build alternatives would require a Plan amendment to locate the project in the CDCA Plan Area in the CDD. The agreed upon changes would not alter the need for a plan amendment for site identification, nor would they vary the land use plan amendment analysis since no land use change is contemplated by these changes.

3.0 Identify Applicable NEPA Documents and Other Related Documents That Cover the Proposed Action

List by name and date all applicable NEPA documents and other related documents that cover the proposed action:

SA/DEIS published by the CEC and BLM on March 26, 2010

FEIS published by the BLM on August 27, 2010

RSA published by the CEC on June 11, 2010

RSA Supplement published by the CEC on July 2, 2010

Presiding Member's Proposed Decision (PMPD) issued by the CEC on August 19, 2010

CEC Final Decision issued on October 12, 2010

Biological Opinion issued to the BLM from the U.S. Fish and Wildlife Service.

4.0 NEPA Adequacy

Question: *Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)?*

Answer: Acres Disturbed: There is no new proposed action. This change is a clarification of the acres disturbed and the undisturbed acres within the project footprint. The project footprint disturbance is unchanged from the PA/FEIS to the ROW grant. The additional acres represent undisturbed areas interspersed within the project footprint.

Secondary Fire Road: Deciding to not build this secondary road does not constitute a new action; it is removal of an action. This road was determined to not be needed due to existing adequate access into the project area and thus its removal does not substantially change any of the action alternatives.

Noise Balancing: Deciding to not conduct noise balancing does not constitute a new action; it is removal of an action. Noise balancing was determined to not be needed due to a lack of noise receptors and thus its removal does not substantially change any of the action alternatives.

Playa Impacts: There is no new proposed action. This change is a clarification of acres impacted. Therefore, it does not represent a change to any of the action alternatives.

Evaporation Ponds: There is no new action. Changing the size of the ponds is a very small change within the existing Selected Action.

Question: *Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)?*

Answer: Acres Disturbed: Yes. The additional acres are fully within the analyzed project footprint and represent undisturbed areas interspersed within fully analyzed disturbed areas. The additional acreage described in the ROD is a function of the ROW grant requirements and will not result in additional impacts to resource areas.

Secondary Fire Road: No new action is proposed.

Noise Balancing: No new action is proposed.

Playa Impacts: Playa impact changes do not change location; the number of acres is clarified. Therefore, the analysis area does not change.

Evaporation Ponds: No new action is proposed.

Question: *If there are differences, can you explain why they are not substantial?*

Answer: Acres Disturbed: No new areas will be disturbed beyond that analyzed in the PA/FEIS. The additional acres are not substantial because they will not be disturbed and are described in order to comply with ROW grant requirements addressing legal descriptions of the project footprint, including undisturbed areas within the footprint.

Secondary Fire Road: Not building the secondary access road will reduce ground disturbance in the project area. There are no adverse impacts resulting from not building the road because Riverside County Fire determined that it was not needed for fire suppression access to the site.

Noise Balancing: Noise balancing will not occur because no noise impacts are expected. Therefore, the change in action will not result in a change in impacts and thus represents a non-substantial change.

Playa Impacts: Changes in playa impacts area clarification, not a change in the actual impacts on the ground because no change in action is occurring.

Evaporation Ponds: The reduction in size of the ponds is not a substantial change and will result in a slight reduction in adverse impacts due to the reduced area of disturbance for these ponds.

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

Answer: Acres Disturbed: Clarification of acres disturbed and undisturbed does not affect or indicate a need to modify the range of alternatives analyzed in the FEIS.

Secondary Fire Road: Deciding not to build a secondary fire access road does not necessitate a change to the range of alternatives because it was determined that fire access was adequately described in all the previously analyzed action alternatives, including the Selected Alternative.

Noise Balancing: Removing the need for noise balancing measures does not indicate a need for a change to the existing range of alternatives. No new action is proposed.

Playa Impacts: Clarifying the number of playa acres impacted is not a new action and does not indicate a need to change the range of alternatives.

Evaporation Ponds: The reduced pond size is a small change and will result in a small reduction of adverse impacts; therefore, there is no need to examine a different range of alternatives.

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

Answer: Acres Disturbed: Acreage changes are mere clarifications and do not represent new data, new impacts, or a change in action. Therefore, the existing analysis is still valid.

Secondary Fire Road: Not building a secondary fire access road was not based on any new data that would indicate a need for new analysis; it was based on a determination by a county agency that the road was not needed for their access. Not building the road would result in slightly reduced disturbance and related vegetation, species, noise and air quality impacts. Safety and fire suppression would not be compromised because adequate access is provided by other routes in the project area.

Noise Balancing: Deciding not to provide noise balancing does not change the analysis because there are no noise receptors in the area and thus, no impacts.

Playa Impacts: Acreage changes in playa impacts are mere clarifications and do not represent new data, new impacts, or a change in action. Therefore, the existing analysis is still valid.

Evaporation Ponds: Smaller ponds will result in a smaller area of disturbance and thus slightly reduced impacts to soils and vegetation. This change in pond size and impacts is slight enough that there's no indication of a need to reexamine the impacts analysis.

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

Answer: Acres Disturbed: Acreage changes are mere clarifications and do not represent new data, new impacts, or a change in action. Therefore, the existing analysis is still valid.

Secondary Fire Road: Not building the road would result in slightly reduced disturbance and related vegetation, species, noise and air quality impacts. No new adverse impacts are anticipated.

Noise Balancing: Deciding not to provide noise balancing does not change the analysis because there are no noise receptors in the area and thus, no impacts.

Playa Impacts: Acreage changes in playa impacts are mere clarifications and do not represent new data, new impacts, or a change in action. Therefore, the existing analysis is still valid.

Evaporation Ponds: The impacts are similar, if slightly reduced, due to smaller pond size.

Question: *Are the public involvement and interagency review associated with existing NEPA documents adequate for the current proposed action?*

Answer: Acres Disturbed: No new action or impacts result from this acreage clarification. Therefore, additional public involvement would not be warranted.

Secondary Fire Road: No new impacts result from this change beyond slight reductions in adverse impacts to vegetation, species, noise, and air quality. Therefore, additional public involvement would not be warranted.

Noise Balancing: No new impacts result from this change because no new noise impacts are expected with or without the change. Therefore, additional public involvement would not be warranted.

Playa Impacts: Impacts are expected to be less than originally anticipated. Therefore, additional public involvement would not be warranted.

Evaporation Ponds: Impacts are expected to be less than originally anticipated. Therefore, additional public involvement would not be warranted.

5.0 Conclusion

Based on the review documented above in this DNA, I conclude that the change in circumstances described above conform to the applicable land use plan inasmuch as the process to amend the plan remains the same for any of the action alternatives, and that the NEPA FEIS documentation fully covers the change in circumstances described above and as reflected in the BLM identified Selected Alternative and no supplementation under NEPA is required.

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision.

Based on the review documented above in this DNA and consistent with the Council on Environmental Quality guidelines at Part 1502.9, I conclude that the change in circumstances described above conform to the CDCA Plan inasmuch as the process to amend the plan remains the same for any of the action alternatives, and that the modifications are consistent with the project NEPA documentation for the 709 MW project and the other action alternatives and no supplementation under NEPA is required.

Signature of Project Lead

Signature of NEPA Coordinator

Signature of the Responsible Official

Date