

**U.S. Department of the Interior  
Bureau of Land Management**

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**Record of Decision  
February 2014**

**Silver State Solar South Project and Las Vegas Field Office  
Resource Management Plan Amendment**

**APPLICANT**

**Silver State Solar Power South, LLC  
353 Sacramento St, Suite 2100,  
San Francisco, CA 94111**

**GENERAL LOCATION**

**The proposed action is located on public lands managed by the Bureau of Land Management in Clark County, Nevada, 2 miles east of Primm, Nevada, along the California/Nevada state line.**

**BLM CASE FILE SERIAL NUMBER(S)**

**N-85801, N-89530, N-90050, and N-90823**

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## Executive Summary

This document constitutes the Record of Decision (ROD) of the United States Department of the Interior (DOI) and the Bureau of Land Management (BLM) for the Silver State Solar South Project (Project) and associated amendments to the Las Vegas Field Office Resource Management Plan (LVFO RMP; October 1998). This ROD includes right-of-way (ROW) grant decisions and a plan amendment to the LVFO RMP under Title II and Title V of the Federal Land Policy and Management Act (FLPMA; 43 U.S.C. § 1712 and 1761) and applies only to BLM-administered lands.

After extensive environmental analysis, consideration of public comments, and application of pertinent Federal laws and policies, it is the decision of the DOI to approve the Silver State Solar South Project (Project), a 250-megawatt alternating current ( $MW_{AC}$ ) solar photovoltaic (PV) project and associated infrastructure necessary to interconnect the power generated from the solar facility to the electrical grid system. This decision authorizes:

- 1) ROW grants for the construction, operation, maintenance, and decommissioning of the solar facility and associated infrastructure proposed by Silver State Solar Power South, LLC; and
- 2) Amendments to the 1998 Las Vegas Field Office Resource Management Plan (LVFO RMP) to: (i) remove the Special Recreation Management Area (SRMA) designation within the ROW grant area; (ii) change the Visual Resource Management (VRM) classification from Class III to Class IV within the ROW grant area; and (iii) designate a 31,859-acre Area of Critical Environmental Concern (ACEC) adjacent to the ROW grant area.

These decisions approve the BLM Preferred Alternative identified in the *Supplemental Environmental Impact Statement for the Silver State Solar South Project and Proposed Las Vegas Field Office Resource Management Plan Amendment* (SEIS/PRMPA) issued on September 20, 2013. The Final SEIS/PRMPA is available online at: [http://www.blm.gov/nv/st/en/fo/lvfo/blm\\_programs/energy/Silver\\_State\\_Solar\\_South.html](http://www.blm.gov/nv/st/en/fo/lvfo/blm_programs/energy/Silver_State_Solar_South.html). The SEIS/PRMPA tiers from the Silver State Solar Energy Project Final EIS (BLM 2010).

The environmental impacts of the proposed action and its alternatives were analyzed in the Draft SEIS/PRMPA issued on October 12, 2012 and October 15, 2012, and the subsequent Final SEIS/PRMPA issued on September 20, 2013, which were prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's (CEQ) NEPA regulations (40 CFR Parts 1500–1508), DOI's NEPA regulations (43 CFR Part 46), and other applicable authorities.

The selected area for the ROW grants is located on public lands administered by the BLM in southern Clark County, Nevada; approximately 2 miles east of the town of Primm and 40 miles south of Las Vegas. The Project area encompasses approximately 2,427 acres of BLM-managed land in the Ivanpah Valley.

Public review and comment on the Project and land use plan amendments were extensive. Public scoping, including three public meetings and numerous agency meetings, initiated the public review process. The BLM held 6 public meetings and received 380 comments on the Draft SEIS/PRMPA. In addition, the BLM received an additional 10 comments on the Final SEIS/PRMPA, even though there was no formal comment period on that document. The BLM carefully reviewed the comments it received and has responded to comments on the Draft SEIS/PRMPA in Appendix D of the Final SEIS/PRMPA, as required under NEPA, and to the extent practicable has responded to the late comments on the Final SEIS/PRMPA in **Appendix D** of this ROD. In addition, twelve formal protest letters were filed with BLM on the proposed plan amendments. In general, protesters were not in support of the proposed amendment and raised the following issues, among others: the BLM's purpose and need for the project, the range of alternatives analyzed in the EIS, potential impacts to desert species habitat and project infrastructure, and cumulative effects. All protesting parties received response letters from the BLM Director conveying the Director's decision on the concerns raised in their protests. The responses concluded that BLM followed the applicable laws, regulations, and policies and considered all relevant resource information and public input in developing the Draft and Final SEIS/PRMPA. Therefore, all protests were denied, and no changes were made to the Departmental decision as a result of the protests. Detailed information on protests may be found online at the following location: BLM Washington Office website: <http://www.blm.gov/wo/stlen/prog/planning/protestresolution.html>

In addition to the U.S. Environmental Protection Agency (USEPA), National Park Service (NPS), U.S. Army Corps of Engineers (USACE), Nevada Department of Wildlife (NDOW), and Clark County Department of Aviation (CCDOA), which formally served as cooperating agencies, the BLM also coordinated and consulted with the U.S. Fish and Wildlife Service (FWS), Nevada State Clearinghouse, Advisory Council on Historic Preservation (ACHP), Nevada State Historic Preservation Office (SHPO), and potentially affected Native American tribes.

The decisions in this ROD reflect careful consideration and resolution of the issues by BLM and the DOI, and were thoroughly analyzed in the environmental review process. These decisions best fulfill the Agency's statutory mission and responsibilities, considering economic, environmental, and technical factors. Granting the ROW(s) contributes to the public interest in providing a reliable electricity supply that allows for the development of renewable power that meets Federal and State renewable energy goals. The ROW grants and mitigation measures will ensure that authorization of the project will protect environmental resources and comply with environmental standards. These decisions reflect the careful balancing of the many competing public interests in managing the public lands for public benefit. These decisions are based on a comprehensive environmental analysis and full public involvement. The BLM has engaged highly qualified technical experts to analyze the environmental effects of the Project. Members of the public have contributed to the analysis and consideration of the many environmental issues arising out of the environmental review process. The BLM and DOI and other consulted agencies have used their expertise and existing technology to address the important issues of environmental resource protection. The DOI and the BLM have determined that the measures contained in the Final SEIS/PRMPA and the reasonable and prudent measures contained in the

United States Fish & Wildlife Service's (FWS) Biological Opinion (BO) significantly minimize and/or mitigate environmental damage and protect resources.

## Introduction

This ROD explains the decisions of the DOI and BLM to determine whether to approve, approve with modifications, or deny the proposed ROW application(s) for the Project and the LVFO RMP amendment. In addition, this ROD provides the background on the Project identifies and summarizes the alternatives studied in the Draft and Final SEIS/PRMPA, describes the decision selected and the rationale for approving that decision, and discusses relationships to other plans, policies, and programs (e.g., the BLM LVFO RMP, county and local plans, and compliance with the Endangered Species Act (ESA), and the National Historic Preservation Act (NHPA)). Applicant-committed environmental protection measures are also described. These are actions, practices, or design features that are part of all action alternatives. Mitigation measures, monitoring requirements can be found in Section VIII of this ROD. These are measures to reduce or eliminate potential environmental impacts that were considered in the Final SEIS/PRMPA and are adopted as required measures in this ROD. In addition, Reasonable and Prudent Measures and Terms and Conditions in the FWS BO, provided in **Appendix B** of this ROD, were also considered and are adopted as required measures in this ROD.

The decisions in this ROD are based on consideration of the information generated during the analytical and public participation processes required by the National Environmental Policy Act (NEPA), Federal Land Policy and Management Act (FLPMA), National Historic Preservation Act (NHPA), Endangered Species Act (ESA), Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, and DOI tribal consultation policies. The BLM carefully considered its analysis regarding the range of reasonable alternatives to the proposed solar energy development project in Clark County, Nevada, including: potential impacts on environmental and cultural resources; practicable means to avoid, minimize, or mitigate those impacts; and national policy goals to promote renewable energy projects. This information was presented and analyzed in the Draft and Final SEIS/PRMPA. The BLM will not issue notices to proceed (NTP) for the project until the BLM determines that compliance with applicable ROW lease/grant stipulations has been satisfied.

The Final SEIS/PRMPA was released for a 30-day protest period for the proposed land use planning decisions and 60-day Governor's consistency review commencing on September 20, 2013. All protesting parties received response letters from the BLM Director conveying the Director's decision on the concerns raised in their protests. The responses concluded that BLM followed the applicable laws, regulations, and policies and considered all relevant resource information and public input in developing the Draft and Final SEIS/PRMPA. Therefore, all protests were denied, and no changes were made to the Departmental decision as a result of the protests. Detailed information on protests may be found online at the following location: BLM Washington Office website: <http://www.blm.gov/wo/stlen/prog/planning/protestresolution.html>. Even though no comment period was provided for on the Final SEIS, the BLM did receive 10 comment letter, which were included to the extent practical and responses to which are included in **Appendix D**. This ROD details the DOI and BLM's final decision, including any required mitigation for the project.

## Background

The Silver State Solar Power South, LLC (the Applicant), submitted a ROW application for the construction, operation, maintenance, and termination of a 250 - 350-MW<sub>AC</sub> solar energy generation facility within a 13,184-acre area of public land east of Primm, Nevada, 40 miles south of Las Vegas, in Clark County, Nevada. The proposed solar energy project would consist of single-axis tracker systems or fixed panels, an underground and overhead electrical power collection system, a substation, two step-up transformers, 230 kilovolt (kV) and/or 220 kV transmission lines, an operation and maintenance area, a switchyard, paved access and maintenance roads, flood and drainage controls, and a fire break.

The proposed solar facility was previously analyzed as Phases II and III in the Silver State Solar Energy Project Final EIS (BLM 2010). The 2010 Final EIS analyzed the development of a 400-MW<sub>AC</sub> project to be constructed in phases. Phase I, which became the Silver State Solar North Project that is currently operational, consisted of the construction, operation, maintenance, and ultimate decommissioning of a 50-MW<sub>AC</sub> solar plant and associated facilities. Phases II and III, which are the subject of the SEIS/PRMPA, consisted of the construction, operation, maintenance, and decommissioning of the remaining 350-MW<sub>AC</sub> project to complete the 400-MW<sub>AC</sub> solar project.

The ROD for the 2010 Final EIS, signed on October 12, 2010, authorized only the first phase (Phase I) of project development. With regard to the remaining 350-MW<sub>AC</sub> of proposed development, the ROD stated that subsequent phases (i.e., Phases II and III) may require supplemental analysis under the NEPA and additional public involvement.

The SEIS/PRMPA addresses new information associated with the project analyzed in the 2010 Final EIS for the Silver State Solar Energy Project (BLM 2010). These changes include (1) modified layouts of the solar arrays and appurtenant facilities identified as Phases II and III in the 2010 Final EIS; (2) amendments to the LVFO Resource Management Plan (RMP) that are required to approve the Project as proposed, as it would be out of compliance with the existing RMP; and (3) consideration of comments received during scoping for the SEIS/PRMPA and the public comment period for the Draft SEIS/PRMPA. In addition, the analysis in the SEIS/PRMPA considered an ACEC nomination brought forth during scoping. The ACEC nomination included 98,300 acres of land in Nevada and 31,079 acres in California. The BLM determined that 40,180 acres of the nominated area within Nevada meets the criteria for both relevance and importance. Of the 40,180 acres, a 31,859-acre ACEC is included as part of the BLM Preferred Alternative because these areas meet the relevance and importance criteria for the Agassiz's desert tortoise. The remainder of the ACEC nomination area in Nevada will be addressed through the LVFO RMP revision process. The California portion of the ACEC nomination is being addressed separately by BLM-California.

The 2010 Final EIS provided an analysis of proposed development within a 7,925-acre right-of-way (ROW) application area (N-85801). In early 2011, the Applicant submitted a ROW application (N-89530) for the Silver State Solar South Project encompassing an additional 5,610 acres of BLM-administered public lands. This area includes 5,069 additional acres immediately north of the previously analyzed ROW application area (N-85801) and a 541-acre area

immediately west. This additional acreage allowed the development of site layout alternatives for the Silver State Solar South Project to avoid impacts to interstate drainages, reduce impacts to desert tortoise and other special status species, and minimize impacts to recreational areas in the Jean Lake/Roach Lake SRMA. Of the previously analyzed 7,925-acre ROW application area, 7,373 acres is included in the ROW application for Silver State Solar South. An additional 200-acre ROW application was submitted under number N-90823, bringing the entire ROW application area to 13,184 acres.

The Draft and Final SEIS/PRMPA addressed new information associated with N-89530 and updated as necessary the consideration of N-85801, which was analyzed in the Final EIS for the Silver State Solar Energy Project as a 400MW<sub>AC</sub> solar PV energy facility. The BLM approved a ROD on October 12, 2010, for the Silver State Solar Energy Project, and authorized ROW N-85077 for the construction and operation a 50MW<sub>AC</sub> solar PV energy facility on 618 acres of BLM-administered lands, which represented the first phase of that proposed project development and became the Silver State Solar North Project. The ROD did not authorize ROW application N-85801, which is now included as part of the Silver State Solar South Project, along with ROW application N-89530.

The BLM prepared the SEIS/PRMPA in compliance with NEPA in response to the ROW application(s). Title V of FLPMA, 43 U.S.C. 1761-1771, authorizes the BLM, acting on behalf of the Secretary of the Interior, to issue a grant on, over, under, or through the public lands for generation, transmission, and distribution of electric energy. The BLM's implementation of its statutory direction for ROW authorizations is detailed in 43 CFR 2800.

The SEIS/PRMPA tiers from the Silver State Solar Energy Project Final EIS (BLM 2010). The Council on Environmental Quality (CEQ) encourages Federal agencies "to tier their environmental impact statements to eliminate repetitive discussion of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (Section 1502.20). As such, the SEIS/PRMPA document only includes information that has been added or revised subsequent to the publication of the 2010 Final EIS to address and analyze specific changes and new information. A supplemental EIS is intended to provide BLM decision makers detailed description and analysis of changes or new information related to a project and also to give the public an additional opportunity to participate in the NEPA process (40 Code of Federal Regulations [CFR] 1502.9[c][4]).

The Authorized Officer administers the ROW authorization and ensures compliance with the terms and conditions of the ROW lease/grant. The term "Authorized Officer" means any employee of the DOI with delegated authority to perform the duties described in 43 CFR 2800. For these specific ROW authorizations, this authority has been delegated to the Field Manager, LVFO, BLM.

## **I. Decision**

The NEPA analysis contained in the SEIS/PRMPA considered the following decisions to be made:

- a. **Right-of-Way** – The BLM will decide whether to approve, approve with modification, or deny issuance of a ROW grant to the Applicant for the Silver State Solar South Project. Modifications may include the proposed use or location of the proposed facilities (43 CFR 2805.10[a][1]).

If the decision is made to grant a ROW, the BLM will also make the decision on which alternative to approve and which terms and conditions are to be included in the ROW grant. The BLM may also consider a combination of Project elements from among the alternatives analyzed in the SEIS/PRMPA, or may consider approving a ROW of less than that requested in the ROW application (as was done for the Silver State Solar North project).

- b. **Land Use Plan Amendment** - The BLM will consider a concurrent amendment of the LVFO RMP to: 1) reduce the size of the Jean Lake/Roach Lake SRMA to ensure that the ROW action proposed in Silver State’s application is in conformance with the existing LVFO RMP and to ensure a balanced use of the public lands and the resources affected by those uses; 2) revise the VRM classification of lands within the Project footprint to ensure management is in conformance with existing LVFO RMP decisions; and 3) evaluate a proposed ACEC and identify management prescriptions for a portion of the proposed ACEC nomination area to address concerns associated with desert tortoise connectivity corridor characteristics in the Ivanpah Valley.

After extensive environmental analysis, consideration of public comments, and application of pertinent Federal laws and policies, it is the decision of the DOI to approve the Silver State Solar South Project (Project), a 250-MW<sub>AC</sub> solar photovoltaic (PV) project and associated infrastructure necessary to interconnect the power generated from the solar facility to the electrical grid system. This decision authorizes:

- 1) ROW grants for the construction, operation, maintenance, and decommissioning of the solar facility and associated infrastructure proposed by Silver State Solar Power South, LLC; and
- 2) Amendments to the 1998 Las Vegas Field Office Resource Management Plan (LVFO RMP) to: (i) remove the Special Recreation Management Area (SRMA) designation within the ROW grant area; (ii) change the VRM classification from Class III to Class IV within the ROW grant area; (iii) designate a 31,859-acre Area of Critical Environmental Concern (ACEC) adjacent to the ROW grant area. These decisions approve the BLM Preferred Alternative identified in the SEIS/PRMPA issued on September 20, 2013.

## II. Alternatives Considered in the SEIS

The Final SEIS analyzed four action alternatives and a No Action Alternative (Alternative A). Under the No Action Alternative, the Applicant’s ROW application(s) to develop the proposed Project would not be approved, no BLM ROW would be granted, and there would be no associated amendment to the LVFO RMP. Since the Project would not be developed, existing land uses within the Project area would continue. The No Action Alternative forms the baseline against which the potential impacts of the Proposed Action and alternatives are compared, and satisfies the CEQ NEPA regulations which require the inclusion of “the alternative of no action”

(40 CFR §1502.14[d]). The No Action Alternative includes current actions and activities in the Project area. No additional actions are assumed to occur in the absence of approval of any of the action alternatives. Selection of the No Action Alternative would not preclude the future approval of other ROWs for energy development or other projects.

Alternative B is the Applicant's original proposal (as described in their Plan of Development/POD dated July 2011). It is similar to Phases II and III of the Proposed Action evaluated in the 2010 Final EIS, but the layout of the Project, including solar arrays, drainage facilities, and appurtenant structures, had been revised since 2010 to avoid potential impacts to resources, particularly to jurisdictional waters of the United States. The proposed generating capacity remains the same (350-MW<sub>AC</sub>) as evaluated in the 2010 Final EIS. Alternative B would disturb up to 3,881 acres of Federal land.

Alternative C represents Phases II and III of the original Proposed Action evaluated in the 2010 Final EIS. Project and related facilities would disturb a total area of 2,546 acres, all within the 7,925-acre ROW application area analyzed in the 2010 Final EIS.

Alternative D would disturb up to 3,110 acres of Federal land and is a modified layout of the Applicant's original proposal (Alternative B above) that would allow access through a historically-used recreation route, avoid impacts to interstate drainages, and reduce impacts to desert tortoise and other special status species.

The BLM Preferred Alternative is a modification of Alternative D and was developed after release of the Draft SEIS/PRMPA to address public and agency concerns related to desert tortoise demographic connectivity within the Ivanpah Valley and agency and public interest in a reduced-scale project. The BLM Preferred Alternative is smaller in area than the other analyzed project alternatives and reduces electricity generation capacity to 250-MW<sub>AC</sub>. The BLM Preferred Alternative would disturb up to 2,427 acres of Federal land entirely within the footprint of alternatives analyzed in the Draft SEIS/PRMPA, and thus involves no new areas of effect. The BLM Preferred Alternative also included consideration of a 31,859-acre area for designation as an ACEC and management prescriptions that would be required for the designated ACEC. This area constitutes a portion of the area in Nevada nominated by Basin and Range Watch, and was determined by a BLM Interdisciplinary Team to meet the relevance and importance criteria for consideration as an ACEC (refer to Appendix B in the Final SEIS/PRMPA for BLM evaluation of the ACEC nomination).

The addition of this new alternative in the Final SEIS/PRMPA is consistent with CEQ regulations (40 C.F.R. 1505.1(e)) guidance allowing an agency to develop new alternative(s) that are variations of alternatives analyzed in a Draft EIS and do not result in significant new impacts. This new layout is located entirely within the footprint of the alternatives analyzed in the Draft SEIS/PRMPA and is smaller in total area, representing a reduction of over 20 percent in total acreage in comparison to Alternative D. Thus, the BLM Preferred Alternative involves no new areas of effect and, in fact, reduces the Project's environmental impacts in comparison to those identified in the Draft SEIS/PRMPA.

### **III. Alternatives Considered but Dismissed from Further Analysis**

A number of alternatives were recommended during the scoping period for the SEIS/PRMPA. The alternatives put forth were similar to alternatives suggested during the EIS process for the Silver State Solar Energy Project analyzed in the 2010 Final EIS, including consideration of alternative technologies; alternative locations (e.g., brownfield development, alternative BLM lands and lands in California); and alternative size and layout. With the exception of the alternative size and layout recommendation, the other alternatives were eliminated from further analysis as they were not viable and did not meet BLM's purpose and need.

### **IV. Preferred Alternative**

In the Final SEIS/PRMPA published on September 20, 2013, the BLM identified the BLM-Preferred Alternative. This alternative reasonably accomplishes the purpose and need for the Federal action while fulfilling the BLM's statutory mission and responsibilities, giving consideration to economic, environmental, and technical factors. In particular, this alternative best addresses public and agency concerns regarding project size and desert tortoise connectivity in the Ivanpah Valley while meeting the BLM's purpose and need. Further, the total estimated acreage of surface disturbance under the Preferred Alternative is the least surface disturbance of all action alternatives analyzed in the Final SEIS/PRMPA. The smaller overall project footprint also reduces impacts to other resources and uses (e.g., wildlife, visual resources, soils, vegetation).

### **V. Environmentally Preferred Alternative**

The CEQ regulations require the ROD to identify one or more environmentally preferred alternative. An environmentally preferred alternative is an alternative that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historic, cultural, and natural resources. Because it would cause the least damage to the biological and physical environment, the BLM has determined that the No Action Alternative is the environmentally preferred alternative. However, the No Action Alternative would not allow development of the energy generating project and would not meet the purpose and need of the project.

### **VI. Mitigation and Monitoring**

#### **a. Required Mitigation**

As required in the BLM NEPA Handbook H-1790-1 and consistent with 40 CFR 1505.2(c), all practicable means to avoid or minimize environmental harm from the Project have been adopted by this ROD. In some cases the desert tortoise mitigation measures presented in the Final SEIS/PRMPA have been revised to include minor clarifications and to identify known costs of implementing the measures. The ROW grant authorizations are subject to the following measures, terms and conditions:

- Avoidance, Minimization, and Mitigation Measures provided in the Final SEIS/PRMPA, Chapter 2.7, amended as in **Appendix A** of this ROD
- Reasonable and Prudent Measures and Terms and Conditions in the FWS BO, provided in **Appendix B** of this ROD, as such may be amended over time;

These mitigation measures will be strictly adhered to throughout the duration of all project activities. Application of these measures will reduce the impacts to BLM-administered lands and resources as described in the Final SEIS/PRMPA. These measures, terms, and conditions are determined to be in the public interest pursuant to 43 CFR 2805.10(a)(1).

#### **b. Monitoring and Enforcement**

The ROW authorization provides the legal authority to enforce compliance with all mitigation measures required for implementation in this ROD, including the measures contained in the biological assessment (BA) and the reasonable and prudent measures and terms and conditions contained in the BO issued by the FWS. Monitoring will occur throughout the duration of the Project for each component of construction, operation, maintenance, and decommissioning of the solar facility. In addition, the Project will include ongoing research to determine whether the desert tortoise connectivity corridor has been narrowed by the Project to a point where its effectiveness will be compromised or even eliminated by way of the area being unoccupied. The BO for this Project contains additional mitigation measures and requirements for desert tortoise to minimize adverse impacts.

The ROW grant(s) issued for the Silver State Solar South Project will be for a term of 30 years with a right of renewal so long as the lands are being used for the purposes specified in the grants, and it will allow the grantee the right to use, occupy, and develop the described public lands to construct, operate and maintain, and decommission a 250-MW<sub>AC</sub> solar PV generating facility and associated facilities in Clark County, Nevada, as the BLM identified and evaluated in the Final SEIS/PRMPA.

Once ROW grant documents have been approved by the BLM, actual on-site construction or other surface-disturbing activities will be authorized by the issuance of a single or phased series of written NTPs by the BLM Authorized Officer. These NTPs will specify authorized activities, location of the authorized activities, and the timing of the authorized activities. Should non-compliance issues, environmental issues, or other problems be encountered during authorized activities, the BLM Authorized Officer may amend or rescind any NTP previously issued. Silver State Solar Power South, LLC may, on approval from the BLM, assign the ROW lease/grant to another party in conformance with the Part 2800 ROW regulations.

Consistent with BLM policy, the Silver State Solar South Project ROW grant(s) will include a diligent development and performance bonding requirement for installation of facilities consistent with the approved POD (BLM Instructional Memoranda (IM) No.

2011-003; Solar Energy Development Policy). Construction of the initial phase of development must commence within 12 months after issuance of the NTP but no later than 24 months after the effective date of the issuance of the ROW grants. The holders shall complete construction within the timeframes approved by the BLM.

The ROD is conditioned on implementation of mitigation measures, monitoring programs and agreements/protest resolutions as identified **Appendix A** of this ROD, Final SEIS/PRMPA, the BO issued and as may be amended by the FWS, and issuance of all other necessary local, state, and Federal approvals, authorizations, and permits.

## **VII. Management Considerations in Choosing the Selected Alternative**

The decision to approve the Silver State Solar South Project takes into account statutory, legal, and national policy considerations, as well as the Applicant's technical and financial capability to construct the project for which the ROWs are requested. The decision was also based on input provided by and received from the public, industry, as well as other Federal and state agencies and affected Indian tribes. Through this review process, all practicable methods to reduce environmental harm have been incorporated into the decision and no undue or unnecessary degradation will result from this project. The decision is consistent with BLM's multiple use mandate under FLPMA.

Secretarial Order 3283 "Enhancing Renewable Energy Development on the Public Lands," was signed January 16, 2009. This Secretarial Order established renewable energy as a Departmental policy and committed the DOI to achieve the goals established in Sec. 211 of the Energy Policy Act of 2005. The Act encourages the development of renewable energy resources, including solar energy. Section 211 of the Act established a goal for the Secretary of the Interior to approve at least 10,000 MW of non-hydropower renewable energy projects on public lands by 2015. Secretarial Order 3285 "Renewable Energy Development by the Department of Interior," signed March 11, 2009, as amended on February 22, 2010, establishes the development of renewable energy as a priority for the DOI and creates a Departmental Task Force on Energy and Climate Change. The Congress, and the President, through the DOI, has established a national policy priority for renewable energy development.

The proposed Project could potentially help displace older fossil-fuel electric generating facilities with clean, renewable power, which would contribute to the reduction of greenhouse gas (GHG) emissions. In addition, the proposed Project would further the objectives of President Obama's Climate Action Plan (June 2013) to eliminate or reduce GHG emissions and promote the deployment of renewable energy technologies. To ensure America's continued leadership in clean energy, the Climate Action Plan set a new goal for the Department of the Interior to permit enough renewable electricity generation from public lands to power more than 6 million homes by 2020. This goal will require the approval of 20,000 MWs of renewable energy projects on the public lands by 2020.

The State of Nevada has also enacted legislation requiring area utility companies to provide energy from renewable energy sources as part of the State's renewable portfolio standard to

achieve a goal of 25 percent of its energy production from renewable energy sources by the year 2025.

The decision to approve the proposed resource management plan amendments takes into account Section 202 of FLPMA that states: “The Secretary shall, with public involvement...develop, maintain, and when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands” (43 USC 1712). Construction of the Silver State Solar South Project is in a planning area managed according to the LVFO RMP, which is currently being revised. The BLM began the process of formally updating the LVFO RMP in 2010, and expects to complete the update in 2015. The RMP allows for multiple uses of public lands and does not prohibit the development of alternative energy sources on the public lands that compose the Project site. As noted, this ROD amends the LVFO RMP to remove the SRMA designation and change the VRM class from VRM Class III to VRM Class IV within the ROW grant area and designate a 31,859 acre ACEC. Approval of the first two amendments makes the Project in compliance with the LVFO RMP.

The BLM lands in the ROW application area and vicinity are managed under the LVFO RMP (1998) and its amendments. The RMP focused management on handling land transfers, recovery of desert tortoise populations, the appropriate locations for mineral extraction, management of off-road recreation, and when to pursue special designations such as ACECs and utility corridors. Since 1998 the planning area has undergone significant population growth and undeveloped lands are targeted for renewable energy development. This has led to new planning and resource management needs to cope with new uses of and demands on the public lands. To account for these changes the BLM has revised the RMP by plan amendments, maintenance actions, and several new statutes. In an effort to have an RMP that fully addresses current and projected land use and resource conditions, the BLM began the process of formally updating the RMP in 2010. This update is not expected to be complete until 2015. The proposed Project is one of the several priority projects selected by the DOI to help fulfill their mandate to develop renewable energy projects on public lands. As such, it was anticipated that a ROD will be made on this Project before the full LVFO RMP revision is complete, in the interim the proposed plan amendments being approved in connection with the Project will ensure that it is consistent with the LVFO RMP, as amended.

### **VIII. Relationship to Other Plans, Policies, and Programs**

The selected alternative must comply with various Federal laws, statutes, regulations, and Executive Orders. The FLPMA mandates that the BLM manage public lands on the basis of multiple use and sustained yield (43 U.S.C. § 1701(a)(7)). To implement the selected alternative, the Project proponent must acquire applicable Federal, state, county, and local permits and other approvals, as necessary. Applicable or potentially applicable approvals (permits, licenses, compliance, or reviews) are listed in Table 1.6 of the Final SEIS/PRMPA.

#### **a. Solar Programmatic EIS for Solar Energy Development in Six Southwestern States**

The BLM has prepared a Programmatic EIS for Solar Energy Development in Six Southwestern States (Solar PEIS) (FES 12-24; DOE/EIS-0403), whose 2012 ROD identifies the Ivanpah Valley, where the Silver State Solar South Project is proposed, as an exclusion zone for large-scale renewable energy development. In the development of the Programmatic EIS and ROD, however, the BLM determined that it would continue processing pending solar energy applications that meet due diligence and siting requirements under existing land use plans and other policies and procedures that the BLM has adopted or might adopt. The BLM defines “pending” applications as any applications (regardless of place in line) filed within proposed variance and/or exclusion areas before the publication of the Supplement to the Draft Solar PEIS (October 28, 2011), and any applications filed within proposed Solar Energy Zones before June 30, 2009. Only “new” applications, not pending applications such as for the Silver State Solar South Project, are subject to the planning decisions and program elements adopted by the Solar PEIS ROD.

The DOI and the BLM have nevertheless reviewed the Solar PEIS and ROD in making this decision. In the Solar PEIS and ROD, DOI and the BLM considered the potential impacts of solar energy development on desert tortoise connectivity habitat when deciding to exclude solar development proposed by new applications in the Ivanpah Valley. In deciding to authorize the Silver State Solar South Project, DOI and the BLM have determined that the modifications to the proposed project, measures contained in the FSEIS/PRMPA and BA, and the reasonable and prudent measures in the biological opinion significantly minimize and/or mitigate environmental damage and adequately protect resources, including desert tortoise habitat connectivity. .

#### **b. County and Local Plans**

State and local plans were considered during the development of the Draft and Final SEIS/PRMPA. Applicable plans are listed in Chapter 1.4 in the 2010 Final EIS, and referenced in the Final SEIS/PRMPA. As noted below, the Governor’s office did not identify any inconsistencies with State or local plans, policies or programs. However, the CCDOA has expressed concerns that the ACEC identified in the BLM’s Preferred Alternative is incompatible with the future development of the Southern Nevada Supplemental Airport. To address CCDOA’s concerns, the ACEC management prescriptions were revised to allow for the consideration of CCDOA-proposed ROWs within the ACEC. Specifically, the management prescriptions were revised to read as follows: “Rights-of-way for construction and operation of the Southern Nevada Supplemental Airport and associated facilities are allowed, subject to an approved Airport Final Environmental Impact Statement and Record of Decision and subject to compliance with the Endangered Species Act.”

#### **c. Endangered Species Act**

Section 7 of the Endangered Species Act (ESA) requires Federal agencies to ensure that their actions do not jeopardize the continued existence of threatened or endangered species or result in the destruction of their designated critical habitat (16 U.S.C. Section 1531 et seq.). It also requires consultation with the FWS in making that determination. The BLM complied with this mandate by initiating consultation with the FWS and preparing a biological assessment.

On November 16, 2012, the FWS submitted a public comment memorandum on the Draft SEIS/PRMPA recommending the BLM select the No-Action alternative to avoid reducing the width of the existing desert tortoise corridor and, if that was not possible, FWS asked the BLM to minimize impacts to the linkage corridor by creating and selecting a new alternative that would protect a corridor of undisturbed desert tortoise habitat between the Silver State North project and the Lucy Gray Mountains and that this corridor should be wide enough to accommodate multiple desert tortoise ranges. The FWS public comment memorandum included a map showing the footprint of the Silver State South combined alternatives, along with a line that depicted a 1.4-mile distance of suitable habitat from the Lucy Gray Mountains.

The FWS memorandum stated, “If this new alternative is selected, we ask BLM and the Applicant to commit to specific mitigation actions that would help offset a reduction in this linkage. These actions may include: (1) funding genetic and disease testing and removing the fence at the long-term translocation site to increase connectivity in the Ivanpah Valley; (2) funding culvert construction under roads in Ivanpah Valley to connect populations on either side of Interstate 15; and (3) funding recovery actions identified by the desert tortoise recovery 5-year action plan.” Additionally, FWS asked the BLM and the applicant commit to specific monitoring studies to help FWS understand the impacts to population demographics (age and sex ratios) and genetic stability of the desert tortoise population as a result of the project and for other projects in the Ivanpah Valley, such as funding a genomic study that looks at fine-grained genetic relationships to reveal patterns of movement and connectivity in the Ivanpah Valley. This memo summarized the FWS’s comments within the NEPA process and did not reflect an analysis under section 7(a)(2) of the Endangered Species Act.

In response to the FWS’s comment memorandum and other concerns about potential impacts to desert tortoise habitat and jurisdictional waters, the Applicant developed iterations of a revised project layout which were reviewed by FWS, BLM and USACE and refined based on agency feedback. Under the modified project proposal, which became the BLM Preferred Alternative following discussions between the Applicant, FWS, BLM, and USACE, the connectivity corridor between the project footprint and the Lucy Gray Mountains would be approximately 1.39 miles wide at its narrowest point (FWS 2012). After construction, the linkage between habitat to the north and south would be approximately 3.65 miles long and between 1.39 and 2 miles wide (FWS 2012). This remaining corridor would be wider and shorter the corridors formed by Alternatives B, C, or D. In addition, Phase III of the project would be eliminated, avoiding impacts to a number of desert tortoises and preserving high quality desert tortoise habitat to the south of the linkage. The FWS currently assesses the viability of linkages based on the ability of those linkages to accommodate a desert tortoise’s entire life history (lifetime utilization area). Because an individual desert tortoise may use up to 1.5 square miles of habitat throughout its life, the FWS estimates that a linkage would need to be at least 1.4 miles wide to accommodate a single, circular home range (FWS 2011). In general, linkages may require that multiple home ranges be accommodated to function optimally, although no information is available on linkage size or configuration required to maintain connectivity between desert tortoise populations (FWS 2012).

In addition to decreasing the project size to widen the linkage corridor, the Applicant and BLM proposed mitigation actions identified in the FWS’s November 16, 2012 comment memorandum

to help offset the impacts to the linkage. These actions include providing funding for: 1) a disease and genetic assessment of desert tortoises within the Large-Scale Translocation Site to determine whether the fence around the Large-Scale Translocation Site can be removed or realigned to improve connectivity; 2) if removal of the fence is determined to be infeasible due to the assessment of tortoise health, funding to fence Highway 93; 3) restoration of habitat near the site of the Silver State South Project; 4) law enforcement personnel to ensure that recreational users follow the proposed management actions within the new area of critical environmental concern; and 5) a U.S. Geological Survey (USGS) study to monitor regional desert tortoise populations for changes in demographic and genetic stability and the viability of the linkage.

Movement studies are currently ongoing within and adjacent to the ROW Application Area with the goal of assessing desert tortoise movement through high-elevation passes in the Lucy Gray and McCullough mountains. These studies are also intended to further evaluate home range sizes within the immediate vicinity of the ROW application area prior to construction of the project. Following construction, ongoing monitoring of translocated desert tortoises would occur, as would studies intended to assess the status of desert tortoises within the remaining corridor east of the project area and the Ivanpah Valley would occur (Ironwood Consulting 2012).

Additionally, the Applicant has agreed to fund a program, developed by the USGS and the BLM, to monitor regional desert tortoise populations for changes in demographic and genetic stability. The monitoring study will address genetic and demographic connectivity, changes in health status of populations in response to habitat changes, and the effects of climate and between-site habitat suitability on connectivity between populations. The monitoring strategy is designed to examine connectivity among pre-selected study sites in the Ivanpah Valley by monitoring genetic connectivity using a multifaceted approach.

If the Silver State South Project degrades connectivity between the northern and southern portions of Ivanpah Valley, monitoring by the USGS should be able to detect any such change, and the long generation time of desert tortoises and re-initiation requirements of section 7(a)(2) would enable the BLM to undertake corrective actions on the ground to bolster connectivity and for the BLM and FWS to re-evaluate the effects of the proposed action during re-initiation of formal consultation, either during the life of the project or at the end of the 30-year right-of-way grant (FWS 2012).

On March 4, 2013, the FWS sent a memorandum requesting the batching of two requests for formal consultation under ESA Section 7: First Solar's Stateline Solar Farm Project received on January 4, 2013, and Silver State Solar South Project received on February 11, 2013. At issue for ESA Section 7 consultation are the effects of the proposed actions on the federally threatened desert tortoise (*Gopherus agassizii*). The FWS reasoned due to 1) proximity of the projects, 2) timing of the consultations, 3) similarity between the effects of the projects, and 4) need to comprehensively address impacts to habitat and connectivity in the North East Recovery Unit, conservation of the desert tortoise in Ivanpah Valley was best addressed by batching these projects instead of approaching the requests for consultation separately. The BLM agreed with the request to batch the consultations, and the FWS accepted a BA for each of the two projects.

Formal Consultation began on March 12, 2013, and BLM received a final BO on September 30, 2013. The batched BO contains a comprehensive analysis of the impacts to desert tortoise, habitat, and connectivity in the Ivanpah Valley from existing development in the Ivanpah Valley, the Proposed Action and the Stateline Solar Project. The BO included two project-specific incidental take statements with applicable Terms and Conditions to ensure clarity in agency and applicant responsibility. Consultation with the FWS, including the development of minimization measures, was substantially complete prior to the release of the Final SEIS/PRMPA. The FWS issued an errata for the BO on December 6, 2013.

In its BO, the FWS stated that the 1.39 mile wide corridor would likely accommodate a single lifetime desert tortoise utilization area throughout the length of the corridor and although the width of the remaining corridor would be narrower than optimal, territorial desert tortoises are unlikely to block the movement of other desert tortoises through the corridor. As a result, the FWS concluded that the Project was not likely to jeopardize the continued existence of the desert tortoise because:

- 1) The FWS does not expect that the issuance of a right-of-way grant for the Silver State South Project would affect the reproductive capacity of desert tortoises in the action area because neither translocation nor construction activity are likely to cause any long-term decrease in the reproduction of individuals;
- 2) The BLM and the Applicant have proposed numerous measures, including translocation of desert tortoises from the project site, to minimize injury and mortality of desert tortoises. Information from previous large-scale translocations has demonstrated that it can be an effective tool for reducing mortality at project sites. Consequently, the proposed action is not likely to appreciably reduce the number of desert tortoises in the Eastern Mojave Recovery Unit; and
- 3) The proposed action will not appreciably reduce the distribution of the desert tortoise in the action area because it would result in the loss of approximately 0.05 percent of suitable habitat in the Eastern Mojave Recovery Unit. Construction of the project would result in a net loss of desert tortoise habitat and may impair connectivity to some degree in the linkage between the project site and the Lucy Gray Mountains, which is the most critical linkage remaining in the Ivanpah Valley. However, the average width of the remaining corridor can accommodate one lifetime desert tortoise utilization area throughout the length of the linkage, the BLM and the Applicant will fund and implement numerous measures to enhance connectivity and secure desert tortoise populations in the surrounding area, the USGS will monitor demographic and genetic stability, and the BLM will be required to re-initiate formal consultation if monitoring detects loss of stability. The long generation time of desert tortoises will allow the BLM to take remedial actions if the USGS detects degradation of demographic or genetic instability.

With respect to the overall impact to desert tortoises in the area of the Project, the BO concluded that the designation of an ACEC in Nevada and expansion of the Ivanpah Desert Wildlife Management Area (DWMA) in California and would contribute to the protection of desert

tortoises within the relevant portion of the Ivanpah Valley because those designations are likely to reduce the amount of human disturbance in these areas. This reduced disturbance is likely to benefit desert tortoises by reducing the number of animals that are killed and the amount of habitat that is lost or degraded. In particular, the BLM's prohibition of site-type ROWs larger than 5 acres in Nevada and the high compensation requirement and limit on cumulative disturbance in California would serve to prevent (in Nevada) or strongly discourage (in California) the loss of large areas of habitat.

**d. Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act of 1918 (MBTA)**

The Bald and Golden Eagle Protection Act (16 U.S.C. 668a-d) provides for the protection of bald and golden eagles by prohibiting, except under certain specified conditions, disturbance or harm that rises to the level of take. The MBTA provides protection for 1,026 bird species. The MBTA makes it unlawful to pursue, hunt, take, capture, kill, or sell most birds listed under the act.

The Final SEIS/PRMPA describes how the Project area provides habitat for cover, breeding, foraging, and/or traveling for various avian species, and that the project authorization could diminish their habitat and create a risk of mortality of adults due to collision. Due to the potential presence of golden eagles, raptors, and bat species within the Project area, the BLM required the proponent to develop a Bird and Bat Conservation Strategy (BBCS), which is included as **Appendix C** of this ROD, with the goal of reducing the potential risks for avian and bat mortality resulting from construction and operation of the Project. The BBCS provides a summary of current biological conditions and describes conservation measures intended to avoid, minimize, and mitigate potential impacts to bird and bat species, which may include state and/or federally designated special status species. The BBCS corresponds to Mitigation Measure (MM) BIO-9 found in the FSEIS/PRMPA (BLM 2013b), and includes the following objectives:

- Identify baseline conditions for bird and bat species currently present at the Project site;
- Identify construction and operational activities that may increase the potential of adverse effects to these species on and adjacent to the Project site;
- Specify steps that should be taken to avoid, minimize, and mitigate any potential adverse effects on these species, including necessary permits to collect bird and bat carcasses for data collection and research; and
- Detail long-term monitoring and reporting goals, including collection and reporting of bird and bat carcasses, including applicable approved protocols that would be used for any surveys and/or monitoring conducted.

The BBCS also includes a proposed post-construction Avian Mortality Monitoring Plan. Post construction avian mortality monitoring and instances of avian mortality reported on site will be used to monitor the effectiveness of mitigation measures that are intended to reduce project risks

to birds and bats. Additional measures aimed at further reducing risks to birds and bats may be implemented through adaptive management if the results from avian mortality monitoring and agency consultation warrant such action.

**e. U.S. Army Corps of Engineers (USACE) Section 404 Permit**

On May 20, 2013, the USACE issued a Jurisdictional Determination (JD) finding that all of the ephemeral drainages that drain to Roach Dry Lake, including the ROW application area, are non-jurisdictional under Section 404 of the Clean Water Act. With the exception of a small, 524 linear foot portion of jurisdictional drainage (which will be avoided by the Applicant), a Section 404 permit will not be required for the discharge of dredged or fill material associated with the Silver State Solar South Project. The USACE's formal responses and determinations are contained as separate letters in Appendix F of the Final SEIS/PRMPA.

**f. Section 106 of the National Historic Preservation Act (NHPA)**

In accordance with Section 106 of the NHPA, Federal agencies are required to consider the effects of the agencies' undertakings on properties listed in or eligible for the National Register of Historic Places (NRHP). Eligible properties can include a diversity of archaeological, historical, and traditional cultural resources.

Within the ROW application area, 23 prehistoric and/or historic cultural sites were recorded and evaluated as to whether they were eligible for listing on the NRHP. The BLM and the Nevada State Historic Preservation Office (SHPO) both concurred, based on the four National Register criteria for evaluation, that eight sites are eligible properties, including three prehistoric sites that are eligible under Criterion *d*, four historical period sites eligible under Criteria *a* and *c*, and one historical period site that is eligible under Criterion *a* and *d*.

The Nevada SHPO has concurred that the proposed Project will not pose an adverse effect to identified historic properties (SHPO, August 13, 2013). However, if any buried and previously unidentified resources are located during project activities, the SHPO recommends that all work in the vicinity of the find cease and their office be contacted for additional consultation per 36 CFR 800.13.b.3.

**IX. Consistency and Consultation Review**

**a. Governor's Consistency Review**

The FLPMA requires the Secretary of the Interior to "coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located." 43 U.S.C. § 1712(c)(9). It further directs the Secretary to "assure that consideration is given to those State, local and tribal plans that are germane in the development of land use plans for public lands" and "assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans."

Regulations implementing FLPMA, 43 CFR § 161 0.3-2(e), require a 60-day period for Governor's consistency review. The purpose of the review is to identify inconsistencies of the proposed plan amendment with State and local plans, programs, and policies. On September 20, 2013, the BLM initiated the period of Governor's Consistency Review for the Final SEIS/PRMPA in accordance with FLPMA. No inconsistencies were identified by the Governor's office.

#### **b. Cooperating Agencies**

Cooperating agency status provides a formal framework for governmental agencies to engage in active collaboration with a Federal agency to implement the requirements of NEPA (42 U.S.C. 4321, et seq.). Federal and state agencies and local and tribal governments may qualify as cooperating agencies because of "jurisdiction by law or special expertise" (40 CFR 1501.6 and 1508.5).

On November 23, 2011, the BLM Southern Nevada District Office sent an invitation to 30 Federal, state, and local entities to be cooperating agencies for the Silver State Solar South SEIS/PRMPA and the Hidden Hills Transmission Project EIS. This letter requested agencies to indicate via written letter if they were interested in becoming a cooperating agency for either of the two projects. The USEPA, CCDOA, NPS (on behalf of Mojave National Preserve), NDOW, and USACE accepted cooperating agency status. The City of North Las Vegas, USGS, FWS, and the ACHP declined cooperating agency status.

#### **c. Native American Consultation**

Federal agencies are required to conduct government-to-government consultation with federally recognized and other Native American tribal groups in accordance with several authorities including, but not limited to, NEPA, the NHPA, the American Indian Religious Freedom Act, Executive Order 13175, and Executive Order 13007.

Pursuant to the regulations, on August 16, 2011 the BLM mailed letters to three representatives of the Las Vegas Paiute Tribe, three representatives of the Moapa Band of Paiutes, two representatives of the Chemehuevi Indian Tribe, two representatives of the Fort Mojave Indian Tribe, two representatives of the Colorado River Indian Tribes, and one member of the non-federally recognized Pahrump Paiute. The tribes were invited to share information or any cultural concerns regarding the proposed Project area.

Through in-person meetings and telephone conversations with the Las Vegas Paiute Tribe, the Chemehuevi Indian Tribe, and the Fort Mojave Indian Tribe, no concerns have been expressed for the proposed Project. The Moapa Band of Paiutes tribe and the Pahrump Paiute tribe raised a concern regarding how the tortoise habitat and the potential use of groundwater within the Project would be affected. Appendix A and B includes a host of measures, terms and conditions designed to monitor and mitigate impacts to tortoise habitat and groundwater. These concerns were addressed through the development of the BLM's Preferred Alternative and designation of the ACEC. The layout has been designed to address concerns associated with desert tortoise connectivity corridor characteristics and impacts to jurisdictional water of the U.S., and

continues to minimize impacts to recreational areas in the Jean Lake/Roach Lake SRMA. The smaller Project footprint provides and would result in fewer acres being disturbed or alternated; less water needed for construction and dust control; and less change in groundwater recharge. The Colorado River Indian Tribes stated on September 6, 2012, that they would send a response to the BLM stating what their concerns might be but a response was not received. There are no known sites of religious or ceremonial importance to the tribes within the Area of Potential Effect for the Project.

## **X. Agency and Public Involvement**

### **a. Scoping**

In compliance with NEPA, the BLM published a Notice of Intent to prepare an EIS on September 1, 2011, in the Federal Register (Vol. 76, No. 170, page 54483-54484). Publication of the NOI began a 60-day scoping period that ended October 31, 2011. The BLM established a website with Project information describing the various methods for providing public comment on the Project, including an e-mail address where comments could be sent electronically. In addition, a public scoping notice was prepared and mailed to inform the public about the scoping process for the preparation of the SEIS/PRMPA and the scheduled scoping meetings. The notice was mailed to Federal, state, and local agencies; elected officials; Native American tribes; special interest groups and organizations; and the general public. The distribution list included 1,071 notices, and was compiled from a list of individuals, organizations, and agencies who had expressed interest in other BLM LVFO projects.

The BLM held three public scoping meetings to identify issues and concerns regarding the proposed Project. Meetings were held on September 27, 28, and 29, 2011 in Primm, Las Vegas, and Jean, respectively. These scoping meetings provided an opportunity for the public to learn about the proposed Project and to provide comments.

Two hundred eight (208) comments were received during the scoping comment period. A summary of these comments is provided in the Scoping Summary Report in Appendix C of the Final SEIS/PRMPA. Comments received during the scoping process were addressed in the analysis of impacts in the Draft SEIS/PRMPA.

### **b. Draft SEIS/PRMPA Public Comment Period**

The USEPA and the BLM published a Notice of Availability (NOA) for public and agency review and comment of the Silver State Solar South Project Draft SEIS/PRMPA on October 12, 2012 and October 15, 2012, respectively, in the Federal Register (Vol. 77, No. 198, page 62235 and Vol 77. 199, page 62525). The 90-day comment period ended January 11, 2013. The BLM received oral testimony at three public meetings held on December 5, 6, and 7, 2012, in Primm, Las Vegas, and Jean, respectively.

Three hundred eighty (380) comments (letters and oral testimony) were received. The BLM reviewed all comments received on the Draft SEIS/PRMPA and developed responses to all substantive comments based on guidance found in the CEQ regulations (40 CFR 1503.4). As a

result of this review, the Final SEIS/PRMPA was modified to supplement and improve the analysis. The responses to substantive comments are provided in Appendix D in the Final SEIS/PRMPA.

### c. **Final SEIS/PRMPA**

The NOA for the Final SEIS/PRMPA was published in the Federal Register on September 20, 2013. Due to a Federal government shutdown between October 1 – 16, 2013 the BLM extended the protest period, which was scheduled to close on October 21, by 16 days to November 6, 2013. The BLM did not provide for a separate comment period on the Final SEIS/PRMPA during the protest. The BLM nevertheless received 10 letters purporting to be comments on the Final SEIS/PRMPA. While there was no comment period on the Final SEIS/PRMPA, the BLM considered the comments to the extent practicable and provides responses to substantive comments in **Appendix D** of this ROD. Based on its review, the BLM determined that they do not raise any significant new circumstances or information relevant to environmental concerns associated with the Project. Therefore no changes to the proposed decision were determined warranted.

### d. **Protests**

Pursuant to BLM's land use planning regulations in 43 CFR 1610.5-2, any person who participated in the land use planning process for the Silver State Solar South Project and who has an interest that is or may be adversely affected by the planning decision may protest approval of the proposed LVFO RMP amendment contained in the Final SEIS/PRMPA within 30 days from date the USEPA publishes the NOA of the Final SEIS/PRMPA in the Federal Register.

Twelve formal protest letters were filed with BLM. In general, protesters were not in support of the proposed amendment and raised the following issues, among others: the BLM's purpose and need for the project, the range of alternatives analyzed in the EIS, potential impacts to desert species habitat and project infrastructure, and cumulative effects. All protesting parties received response letters from the BLM Director conveying the Director's decision on the concerns raised in their protests. The responses concluded that BLM followed the applicable laws, regulations, and policies and considered all relevant resource information and public input in developing the Draft and Final SEIS/PRMPA. Therefore, all protests were denied, and no changes were made to the Departmental decision as a result of the protests. Detailed information on protests may be found online at the following location: BLM Washington Office website: <http://www.blm.gov/wo/stlen/prog/planning/protestresolution.html>

## **XI. Decision Rationale**

These decisions fulfill BLM's legal requirements for managing public lands. Granting the ROW contributes to the public interest in developing renewable power to meet state and Federal renewable energy goals. The stipulations in the grant ensure that authorization of the Silver State Solar South Project will protect environmental resources and comply with environmental standards. These decisions reflect careful balancing of many competing public interests in managing public lands. These decisions are based on comprehensive environmental analysis and full public involvement. During the scoping process and following the publication of the Draft

SEIS/PRMPA, members of the public submitted comments that enhanced the BLM's consideration of many environmental issues relevant to this project. The DOI and the BLM have determined that all practicable mitigation measures contained in the Final SEIS/PRMPA and the BO, which avoid or minimize environmental harm, have been adopted.

The BLM has determined that the analysis contained in the Final SEIS/PRMPA is adequate for the purposes of reaching an informed decision regarding the ROW application and LVFO RMP amendments. This ROD reflects careful consideration of the information generated during the environmental review process for the Silver State Solar South Project, and it further reflects resolution of the issues by the BLM and the DOI through such process. This ROD applies only to the BLM-administered lands and to the BLM's decision on the Silver State Solar South Project and Las Vegas Field Office Resource Management Plan Amendments. Other agencies are responsible for issuing their own permits and applicable authorizations for the Project.

## **XII. Errata**

The BLM has made clarifications and minor editorial changes to the Final SEIS/PRMPA that have been incorporated in this ROD. An errata for the FEIS/PRMPA is included as **Appendix E** of this ROD. The errata includes minor edits to clarify language and to include known costs for desert tortoise mitigation measures. The revised POD will govern in the event of any factual discrepancies between it and the Final SEIS/PRMPA. To the extent that the clarifications affect the project description, the POD will incorporate these clarifications. To the extent that such clarifications affect a mitigation measure, **Appendix A** of this ROD, contains the final language.

## XV. Final Agency Action

### r. Land Use Plan Decisions

It is the decision of the BLM to approve the Proposed Plan Amendment to the Las Vegas Field Office Resource Management Plan (LVFO RMP) to remove the SRMA designation within the ROW area to be granted for the Silver State Solar South Project. It is also the decision of the BLM to approve the Proposed Amendment to the LVFO RMP to change the VRM Class designation within the ROW grant from VRM Class III to VRM Class IV. It is also the decision of the BLM to approve the Proposed Amendment to the LVFO RMP to designate a 31,859 acre ACEC. An amendment to an approved resource management plan is to be approved by the State Director only after resolution of any protests by the BLM Director (43 CFR 1610.5-1, 1610.5-2, 1610.5-5). The decision on the protests by the BLM Director is the final decision for the Department (43 CFR 1610.5 2).

I have resolved all protests (or they have been withdrawn) and, in accordance with BLM regulations, 43 CFR 1610.5-2, my decision on the protests is the final decision of the Department of the Interior.

I hereby approve the above-described plan amendments. This approval is effective on the date this Record of Decision is signed.

Approved By:

  
 Neil Kornze  
 Principal Deputy Director  
 Bureau of Land Management

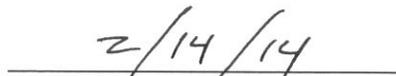
  
 Date

### s. Right-of-Way Authorization

It is my decision to approve ROW grants to Silver State Solar Power South, LLC, subject to the terms, conditions, stipulations, Plan of Development, and environmental protection measures developed by the Department of the Interior and reflected in this Record of Decision. This decision is effective on the date this Record of Decision is signed.

Approved By:

  
 Neil Kornze  
 Principal Deputy Director  
 Bureau of Land Management

  
 Date

t. **Secretarial Approval**

I hereby approve this decision. My approval of this decision constitutes the final decision of the Department of the Interior and, in accordance with the regulations at 43 CFR 4.410(a)(3), is not subject to appeal under Departmental regulations at 43 CFR Part 4. Any challenge to this decision, including the BLM Authorized Officer's issuance of the right-of-way as directed by this decision, must be brought in Federal District Court.

Approved by:



\_\_\_\_\_  
Tommy P. Beaudreau  
Principal Deputy Assistant Secretary for  
Lands and Minerals Management  
U.S. Department of the Interior

Feb 14, 2014  
\_\_\_\_\_  
Date

## **Appendix A: Mitigation Measures**

**Appendix B: Biological Opinion**

**Appendix C: Bird and Bat Conservation Strategy**

**Appendix D: Response to Comments Received on Final SEIS/PRMPA**

**Appendix E: Final SEIS/PRMPA Errata**