

RECORD OF DECISION

Stateline Solar Farm Project and Amendment to the California Desert Conservation Area Plan

Lead Agency:

*United States Department of the Interior
Bureau of Land Management*

Case File Number: CACA 048669

Stateline Solar Farm Project Decision to Grant Right-of-Way and Amend California Desert Conservation Area Plan

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February 2014



Publication Index Number: BLM/CA/PL-2014-001+1793

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Executive Summary

This Record of Decision (ROD) presents the decisions to be made by the United States Department of the Interior (DOI) Bureau of Land Management (BLM) with respect to the Stateline Solar Farm Project (SSFP, Project, or Proposed Action) proposed by Desert Stateline, LLC (the Applicant). The Applicant has filed an application for a Right-of-Way (ROW) authorization with the BLM to construct, operate, maintain, and decommission an approximately 1,685 acre (ac), 300-megawatt (MW) solar photovoltaic (PV) energy generation facility in the northeastern Mojave Desert in San Bernardino County, California, near the town of Primm, Nevada (Proposed Action or Project).

The decisions to be made in the ROD include:

- Approve a solar energy right-of-way lease/grant to Desert Stateline, LLC;
- Modify the configuration of existing open routes within the footprint of the Project site;
- Amend the California Desert Conservation Area (CDCA) Plan to identify the Project site as suitable for solar energy development; and
- Amend the CDCA Plan to modify the boundaries of the existing Ivanpah Desert Wildlife Management Area (DWMA) to add the Northern Ivanpah Valley Unit to the existing DWMA.

These decisions were analyzed in a joint Proposed Final Plan Amendment/Final Environmental Impact Statement/Environmental Impact Report (PA/EIS/EIR) that was published on November 15, 2013. The Final PA/EIS/EIR analyzed the Applicant's Proposed Action, three alternative configurations of the proposed facility, and related BLM planning decisions regarding resources in the vicinity of the Project site. It was prepared jointly by the BLM and San Bernardino County, CA (County) pursuant to the applicable requirements under the National Environmental Policy Act (NEPA) and the California Environmental Protection Act (CEQA), respectively. The County is separately considering a decision whether to approve groundwater well permits in connection with the Project.

The decisions in this ROD reflect careful consideration and resolution of the issues identified in the Project's PA/EIS/EIR, which were thoroughly analyzed during the environmental review process. These decisions best fulfill the BLM's and DOI's statutory mission and responsibilities. Granting the ROW for the Project will contribute to the public interest providing a reliable electricity supply that allows for the development of renewable power to satisfy Federal renewable energy goals. Similarly, the mitigation measures incorporated as part of the ROW grant and the related planning decisions to be made here will ensure that the authorization of the Project will protect environmental resources and comply with applicable environmental standards. The modification of the boundaries of the DWMA will also contribute to protection of environmental resources, including desert tortoise. In total, these decisions reflect the careful balancing of the many competing public interests in managing the public lands and are based on a comprehensive environmental analysis and full public involvement. The BLM and DOI have determined that approval of the Project is in the public interest.

1.0 Introduction

Background

This ROD presents the decisions being made by the DOI and the BLM with respect to the SSFP proposed by the Applicant. The Applicant, a wholly-owned subsidiary of First Solar Development, Inc. (First Solar), has filed Application CACA #48669 for a ROW authorization with the BLM to construct, operate, maintain, and decommission an approximately 1,685 ac, 300-MW AC solar PV energy generation facility in the northeastern Mojave Desert in San Bernardino County, California, near the town of Primm, Nevada. The Proposed Action includes the PV generating facility, a 220-kilovolt (kV) generation interconnection (gen-tie) transmission line, operations and maintenance facilities, and a site access road. All of the proposed facilities would be located on public lands managed by the BLM's Needles Field Office. In addition, the ROD also approves associated land management planning amendments to the CDCA Plan and implementation decisions being made with respect to resources within the Ivanpah Valley. These decisions include: (i) amending the CDCA Plan to identify the Project site as suitable for solar energy development; (ii) amending the CDCA Plan to modify the boundaries of the existing Ivanpah Desert Wildlife Management Area (DWMA) by adding the Northern Ivanpah Valley Unit to the existing DWMA, and (iii) modifying the configuration of open routes within the Project's footprint.

Purpose and Need

The NEPA guidance published by the Council on Environmental Quality (CEQ) states that the Purpose and Need section of an Environmental Impact Statement "shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action" (40 Code of Federal Regulations (CFR) §1502.13). The following discussion sets forth the purpose of and need for the project as required under NEPA.

In accordance with the Federal Land Policy Management Act (FLPMA) (Sections 102(a)(7), 302(a), and 601), public lands are to be managed for multiple uses that take into account the long-term needs of future generations for renewable and non-renewable resources. The Secretary of the Interior is authorized to grant ROWs on public lands for systems of generation, transmission, and distribution of electric energy (Section 501(a)(4)). Taking into account the BLM's multiple use mandate, the purpose and need for the Proposed Action is to respond to a FLPMA ROW application submitted by the Applicant to construct, operate, maintain, and decommission a solar energy-generating facility and associated infrastructure on public lands administered by the BLM in accordance with FLPMA, BLM ROW regulations, and other applicable Federal laws and policies.

In conjunction with FLPMA, the Proposed Action would, if approved, assist the BLM in addressing the following management objectives:

- Executive Order 13212, dated May 18, 2001, which mandates that agencies act expeditiously and in a manner consistent with applicable laws to increase the production and transmission of energy in a safe and environmentally sound manner."
 - Secretarial Order 3285, dated March 11, 2009, and amended as 3285A1 on February 22, 2010, which "establishes the development of renewable energy as a priority of the Department of the Interior."
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- The President’s Climate Action Plan, announced on June 25, 2013, to reduce carbon pollution, prepare the U.S. for the impacts of climate change, and lead international efforts to address global climate change. 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 BLM will decide whether to deny the proposed ROW, grant the ROW, or grant the ROW with modifications. The BLM may include any terms, conditions, and stipulations it determines to be in the public interest, and may include modifying the proposed use or changing the route or location of the proposed facilities (43 CFR 2805.10(a)(1)).

In connection with its decision on the Proposed Action, BLM will also consider potential amendments to the CDCA Plan. The CDCA plan, while recognizing the potential compatibility of solar energy facilities on public lands, requires that all sites associated with power generation or transmission not identified in the plan be considered through the land use plan amendment process. The BLM policy encourages the avoidance of development on lands with high conflict or sensitive resource values (Instruction Memorandum (IM) 2011-061). While the BLM is not required to formally determine whether certain high conflict lands are or are not suitable for solar energy development, if BLM decides to make that decision, it must amend the CDCA plan. Here, BLM is potentially deciding whether to amend the CDCA plan to identify the Project site as suitable or unsuitable for solar energy development. At the same time, BLM will also decide whether to amend the CDCA plan to make high conflict or sensitive resource value areas within the project application area unavailable for solar development.

2.0 Overview of Alternatives

In the PA/EIS/EIR, BLM evaluated four action alternatives consisting of a Plan Amendment and project components, one No Action alternative, and two No Project alternatives. Revised Alternative 3 was identified as the BLM’s preferred alternative.

Proposed Action – 300 MW generated on 2,143 Ac (Alternative 1). This alternative consists of the use of cadmium-telluride (CdTe)-based PV panels designed to generate 300 MW of electrical energy on a single, contiguous footprint comprising 2,143 acres of public lands (see Figure 1-1 in the PA/EIS/EIR). This alternative would also include modification of the boundaries of the Ivanpah Desert Wildlife Management Area (DWMA), resulting in a net addition of 23,363 acres to the existing DWMA, by BLM. This alternative would require a CDCA Plan Amendment (see Section 10.2, below, regarding the CDCA Plan amendment and conformance with the CDCA Plan).

2,385-Acre Alternative (Alternative 2). This alternative consists of the use of CdTe-based PV panels designed to generate 300 MW of electrical energy on 2,385 acres (see Figure 2-2 in the PA/EIS/EIR). Under this alternative, the solar panels would be developed in a bifurcated footprint (two separate arrays). This alternative would also include modification of the boundaries of the Ivanpah DWMA, resulting in a net addition of 23,121 acres to the existing DWMA, by BLM. This alternative would require a CDCA Plan Amendment.

1,685-Acre Alternative (Revised Alternative 3). This alternative consists of the use of CdTe-based PV panels designed to generate 300 MW of electrical energy on a single, contiguous footprint comprising 1,685 acres of public lands (see Figure 2-4 in the PA/EIS/EIR). The footprint of this alternative would be adjusted from that proposed in Alternative 1 in order to reduce impacts to environmental resources. This alternative would also include modification of the boundaries of the Ivanpah DWMA, resulting in a net

addition of 23,821 acres to the existing DWMA, by BLM. This alternative would require a CDCA Plan Amendment.

Reduced Acreage Alternative (Alternative 4). This alternative consists of the use of CdTe-based PV panels designed to generate 232 MW of electrical energy on a single, contiguous footprint comprising 1,766 acres of public lands (see Figure 2-7 in the PA/EIS/EIR). The footprint of this alternative would be the same as the northern portion of the bifurcated footprint in Alternative 2. This alternative would also include modification of the boundaries of the Ivanpah DWMA, resulting in a net addition of 23,740 acres to the existing DWMA, by BLM. This alternative would require a CDCA Plan Amendment.

No Action Alternative (Alternative 5). Under the No Action alternative, the BLM would deny the Applicant's ROW grant application and no CDCA Plan Amendment would be required. Under this alternative there would also be no modification of the boundaries of the Ivanpah DWMA.

No Project, Exclude Solar on Site Alternative (Alternative 6). Under this alternative, there would be no issuance of a ROW grant. This alternative would include modification of the boundaries of the Ivanpah DWMA, resulting in a net addition of 25,506 acres to the existing DWMA. This alternative would include approval of a LUP Amendment finding that the site is not suitable for solar energy development.

No Project, Approve Solar on Site Alternative (Alternative 7). Under this alternative, there would be no issuance of a ROW grant, and no modification of the boundaries of the Ivanpah DWMA. This alternative would include approval of a LUP Amendment finding that the site is suitable for solar energy development.

Section 2.8 of the PA/EIS/EIR describes alternative sites, technologies, and methods that were considered as alternatives to the Proposed Action, but not carried forward for detailed analysis. These alternatives included sites located on private land, BLM-administered land, and on brownfields/degraded lands identified by the U.S. Environmental Protection Agency. Additionally, the BLM considered alternative types of energy projects, including solar power tower, distributed solar generation, and wind energy, among others. The BLM also considered conservation and demand-side management as a potential alternative to the Project. In each instance, for the reasons set forth in Section 2.8 of the PA/EIS/EIR, the BLM eliminated these alternatives from detailed analysis based on one or more of the following reasons, the alternatives would: (i) not respond to the BLM's purpose and need; (ii) be technically or economically infeasible; (iii) be inconsistent with the basic policy objectives for the management of the area; implementation of the alternative would be remote or speculative; (iv) be substantially similar in design to an alternative that is analyzed; and/or, would have substantially similar effects to an alternative that is analyzed.

2.1 Environmentally Preferred Alternative

In accordance with 40 CFR 1505.2(b), the BLM has identified Alternative 6, the No Project, Exclude Solar on Site Alternative, as the environmentally preferred alternative. Along with Alternatives 5 and 7, Alternative 6 would cause the least damage to the biological and physical environment in the Project area because it would not create a disturbance in the near term. However, of these 3 alternatives, Alternative 6 would exclude the site from future solar development, and would also include the entire project area within the expanded boundaries of the Ivanpah DWMA. Out of the action alternatives, the environmentally preferred alternative would be Revised Alternative 3 (the Agency Preferred Alternative). This alternative would result in less ground disturbance than any of the other alternatives, and also incorporates site preparation techniques which minimize ground disturbance and vegetation removal.

3.0 Decision

The decision is hereby made to approve the Agency Preferred Alternative (Revised Alternative 3) described in this section by amending the CDCA Plan to allow solar energy-related use of the specified property and to expand the Ivanpah DWMA, approving a ROW grant for land managed by the BLM in San Bernardino County, California, and modifying the configuration of open routes within the Project's footprint. These decisions fulfill the applicable 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.

This ROD approves the construction, operation and maintenance, and decommissioning of the up-to 300-MW SSFP on BLM-administered public lands in eastern San Bernardino County, California, analyzed as the SSFP Agency Preferred Alternative in the PA/EIS/EIR, which was noticed in the November 15, 2013, Federal Register (78 FR 68860). The Agency Preferred Alternative also is referred to as the Selected Alternative in this ROD.

This approval will take the form of a FLPMA ROW grant, issued in conformance with Title V of FLPMA (42 USCA §1761 et seq.) and its implementing regulations (43 CFR §2801 et seq.). In order to approve the site location for the SSFP, BLM also approves a land use plan amendment to the CDCA Plan. The decisions contained herein apply only to the BLM administered public lands within the boundary of the Selected Alternative. The Project site is located in the northeastern Mojave desert, approximately 2 miles southwest of Primm, Nevada, 1 mile west of Interstate 15 (I-15) in San Bernardino County, California, within Sections or portions of Sections 13, 14, 23, 24, 26, and 26, Township 17N, Range 14E. Figure 1, provided in Appendix 1 of this ROD, shows the location of the project site.

The ROW grant authorization will allow the Applicant to use, occupy, and develop the described public lands; and to construct, operate and maintain, and decommission a solar PV electric generating facility with a capacity of up to 300 MW. Within the ROW area, construction and operation would permanently disturb approximately 1,685 acres for a solar plant site and linear facilities outside the solar plant site (including a gen-tie line and access road).

The total site construction period would consist of approximately 2 to 4 years. The ROW grant will be issued to the Applicant for a term of 30 years with a right of renewal provided the lands are being used for the purposes specified in the grant. The BLM requires the initiation of project construction within two years of the issuance of a ROW grant. In addition, initiation of construction will be conditioned on the issuance of a Notice to Proceed (NTP) for construction. If the approved Project does not progress to construction or operation or is changed to the extent that it appears to the BLM to be a new project proposal on the approved Project site, that new proposal may be subject to additional review under NEPA and may require additional approval from the BLM.

The Project site under the Selected Alternative includes three routes of travel designated by BLM as open routes. These routes include route 699226 (1.9 miles encompassed by Alternative 3), 699198 (2.0 miles), and 699238 (1.3 miles). Through the ROD, BLM is approving the relocation of these off-road, recreational vehicle routes outside of the Project's boundary fence and designation of the re-located routes as open routes. The re-located routes will be constructed by the Applicant prior to the fencing off of the existing routes. The locations of the re-located routes are shown in Figure 2.

The ROW is subject to the grant's terms and conditions; implementation of the approved mitigation measures provided in Appendix 4 of this ROD; those measures included in the Biological Opinion (BO)

issued by the United States Fish and Wildlife Service (FWS), which is provided in Appendix 2 of this ROD; and the issuance of all other applicable local, state, and federal approvals, authorizations, and permits.

The current and expanded boundaries of the Ivanpah DWMA are shown in Figure 3, and the acreage to be included in the expanded DWMA is shown in Table 1.

Table 1. Acreage to be Modified in Ivanpah DWMA, Selected Alternative

Land Area	Acreage in Land Area
Original Ivanpah DWMA	37,280 ac
Total in Northern Ivanpah Unit	+ 29,110 ac
Ivanpah Solar Electric Generation System (ISEGS)	-3,471 ac
Caltrans JPOE	-133 ac
Stateline Selected Alternative	-1,685 ac
Subtotal New Acreage Added to DWMA	23,821 ac
Removal of Ivanpah Playa	-2,997 ac
<i>Net Acreage Added to DWMA</i>	<i>+20,824</i>
Final Total in Expanded DWMA	58,104 ac

The portion of the Northern Ivanpah Valley Unit in the expanded DWMA is the original 29,110 acres of the Northern Ivanpah Valley Unit area, but without the acreage associated with the ISEGS (3,471 acres) project, the CalTrans Joint Port of Entry (133 acres), or the SSFP Project (1,685 acres). In addition, the boundary of the DWMA is revised on the Ivanpah Dry Lake to allow land sailing in this area which does not support tortoise habitat. This later modification removes 2,997 acres that were in the original DWMA from the final DWMA boundaries. Therefore, the total acreage added under the Proposed Action is 23,821 ac, less the acreage removed in connection with the Ivanpah Playa (2,997 ac), results in a total acreage within the expanded DWMA of 58,104 acres (20,824 net ac added).

The management prescriptions for the current Ivanpah DWMA were developed for the protection of desert tortoises, and are defined in Appendix A, Section A.2, of the NEMO Final EIS (BLM 2002). These same prescriptions apply to the expanded portion of the DWMA. The area incorporated into the Ivanpah DWMA is also subject to all associated land use restrictions, including:

- Authorized ground-disturbing activities shall normally be authorized only between November 1 and March 1. If ground-disturbing activities must be authorized outside this window, an on-site biological monitor shall be required throughout activities, as well as other stipulations to prevent take.
- New surface disturbing projects shall include specific design features (see mitigation measures in Attachment 1 of Appendix A of the NEMO Final EIS) to minimize potential impacts to desert tortoise and desert tortoise habitat.
- Reclamation would be required for activities that result in loss or degradation of desert tortoise habitat within the desert tortoise wildlife management area, to as close to pre-disturbance condition as practicable.
- Cumulative new surface disturbance on public lands administered by BLM within any desert tortoise wildlife management area shall be no more than one percent of BLM Lands.
- Compensation for disturbances of public lands within the desert tortoise ACEC's shall be required at the rate of five acres for each acre disturbed.

This ROD applies only to BLM administered lands, and to BLM's decision on the SSFP. It does not apply to private lands or other lands outside the BLM's jurisdiction. Other agencies, including, but not

limited to, San Bernardino County, and California Department of Fish and Wildlife (CDFW), are responsible for issuing their own decisions and applicable authorizations for the SSFP.

4.0 Management Considerations in Selecting the Preferred Alternative

The BLM selected Revised Alternative 3 as the Agency's Preferred Alternative. The selection of this Preferred Alternative reflects careful balancing of many competing public interests in managing public lands in accordance with the multiple use mandate and other obligations in FLPMA. It also is based on comprehensive environmental analysis and full public involvement in accordance with NEPA.

4.1 Federal Land Policy and Management Act of 1976

The FLPMA establishes policies and procedures for the management of public lands. In Section 102(a)(8), Congress declared that it is the policy of the United States that:

“. . . the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use (43 U.S.C.1701(a)(8)).”

Title V of FLPMA (43 USC 1761-1771) and the BLM's ROW regulations (43 CFR Part 2800) authorizes BLM, acting on behalf of the Secretary of the Interior, to authorize a ROW grant on, over, under, and through the public lands for systems for generation, transmission, and distribution of electric energy. The BLM Authorized Officer (AO) administers the ROW authorization and ensures compliance with the terms and conditions of the ROW lease. This authority is derived from the authority of the Secretary of the Interior, and may be revoked at any time. With respect to this ROW grant, this authority has been delegated to the Field Manager of the Needles Field Office, who will be responsible for managing the ROW grant for the SSFP. The grant includes terms and conditions, including compliance with the BO and adopted mitigation measures identified in Appendix 4, as well as compliance with any other applicable Federal rules and regulations, that are designed to protect public health and safety, prevent unnecessary damage to the environment, and ensure that the project will not result in unnecessary or undue degradation of public lands.

4.2 National Environmental Policy Act and Public Involvement

Section 102(c) of NEPA (42 USC 4321 et seq.) and the CEQ and DOI implementing regulations (40 CFR Parts 1500–1508 and 43 CFR Part 46) provide for the integration of NEPA directives into agency planning to ensure appropriate consideration of NEPA's policies and to eliminate delay. When taking actions such as approving CDCA Plan amendments and ROW grants, the BLM complies with the applicable requirements of NEPA, the CEQ's NEPA regulations, and the agency's own regulations and policies for the implementation of NEPA. Compliance with the NEPA process is intended to assist Federal officials in making decisions about a project that are based on an understanding of the environmental consequences of the decision, and identifying actions that protect, restore, and enhance the environment. The Draft PA/EIS/EIR, Proposed PA/Final EIS/EIR, and this ROD document the BLM's compliance with the requirements of NEPA for the SSFP.

The BLM engaged highly qualified technical experts to analyze the environmental effects of the SSFP and alternatives. The BLM and the County, along with other consulting agencies, including USFWS, CDFW and affected tribes, used their expertise and best available information to address potential resource issues associated with the Proposed Action and alternatives. During the scoping process and following the publication of the Draft PA/EIS/EIR, members of the public submitted comments that were also part of BLM's consideration of the potential environmental impacts associated with the SSFP. Appendix G of the Final PA/EIS/EIR includes responses to all of the comments submitted on the Draft PA/EIS/EIR.

Chapter 4 of the PA/EIS/EIR presents an analysis of the environmental consequences that would result from each of the seven alternatives described above, including their effectiveness in meeting the BLM's purpose and need for action, which includes consistency with the requirements of the FLPMA, the policy and legal directives encouraging renewable energy development on BLM-administered public lands, and basic policy objectives for the management of the lands governed by the CDCA Plan. The BLM's purpose and need is described in Section 1 of this ROD.

The MW capacity associated with the Preferred Alternative will assist the BLM in addressing several management and policy objectives. The Project will provide clean electricity for homes and businesses, and bring much-needed jobs to the area. It is also expected to provide climate and energy security benefits to California and the Nation. The project is also expected to create 400 jobs during the construction period and up to 10 permanent, full-time jobs during its operation.

The expansion of the boundaries of the Ivanpah DWMA evaluated in the PA/EIS/EIR will assist BLM in addressing several management and policy objectives related to the protection of desert tortoise. It will also help mitigate the impacts of the Proposed Action. Members of the public proposed the expansion during the public scoping process.¹ In response to the ROW application and in consideration of the scoping comments, BLM identified a need to consider modification of the boundaries of the currently-existing Ivanpah DWMA in order to provide additional protection to tortoise populations in the project area. The BLM determined that special management attention is needed for the desert tortoise based on the potential approval of the Proposed Action or an alternative. In response, the BLM identified a need to modify the boundary of the Ivanpah DWMA, established in 2002, to align its boundaries with those of the Ivanpah Critical Habitat Unit (CHU) and the Eastern Mojave Recovery Unit desert tortoise populations by including a portion of the Northern Ivanpah Valley Unit. Modification of the DWMA boundary will also serve to provide protection for translocated tortoises by limiting future land uses in the proposed translocation areas.

5.0 Notice of Clarifications of the Final PA/EIS/EIR

Minor corrections to and clarifications of the PA/EIS/EIR are provided in Appendix 3. These minor revisions have been made as a result of and in response to additional input received on the document (see Section 9.3 of this ROD) and internal BLM review. None of the minor corrections and clarifying statements affects the adequacy of the underlying FLPMA or NEPA analysis in the PA/EIS/EIR, nor do they affect the location, features, components, or activities associated with the Selected Alternative.

¹ Basin and Range Watch nominated an area covering 98,300 acres of land in Nevada and 31,079 acres of land in California for consideration as an Area of Critical Environmental Concern (ACEC). The DWMA expansion area authorized by this area is within the area nominated for ACEC designation in California. The evaluation of the California Portion of the Basin and Range Watch's ACEC nomination is contained in Appendix D of the PA/EIS/EIR.

6.0 Consistency and Consultation Review

6.1 San Bernardino County CEQA Review

As part of the Proposed Action, the Applicant has submitted well construction permits to the County for up to two groundwater production wells and three groundwater monitoring wells. The wells would be used to produce groundwater for dust suppression, fire response during construction, and for fire response and sanitary purposes during operations. Under Memorandum of Understanding (MOU) Agreement No. 03-1211 between BLM and the County, facilities requiring groundwater wells fall under the County's jurisdiction, and would therefore be required to comply with County Ordinance No. 3872 regarding permitting and monitoring of groundwater extraction wells. Because the Proposed Action would include installation of groundwater extraction wells, implementation of the proposed facility would require discretionary approval from the County with respect to issuance of well permits from the Environmental Health Services Department. Because the County must take a discretionary action, the Project warranted environmental review under CEQA. The County will be responsible for certifying the Final PA/EIS/EIR after reviewing the document for consistency with CEQA requirements (CEQA Guidelines §15090). If the Final EIS/EIR demonstrates that the Proposed Action would have significant and unavoidable (not mitigable) impacts and the County decides to approve the well permits, then the County will need to adopt a "Statement of Overriding Considerations" explaining the reasons for approving the well permits despite its significant impacts (CEQA Guidelines §15093).

6.2 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 USC § 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 §1610.3-2(e), generally require a 60-day period for Governor's consistency review; however, by agreement, this review period here has been expedited. The purpose of the review is to identify inconsistencies of the proposed PA with State and local plans, programs, and policies. On November 15, 2013, BLM initiated the period of Governor's Consistency Review for the PA/EIS/EIR in accordance with FLPMA. The Governor's Office of Planning and Research provided a formal response dated December 16, 2013, which did not identify any inconsistencies between the PA and any State or local plans, programs, and policies.

6.3 Government-to-Government Consultation with Tribes

As described in detail in Section 5.2.3 of the PA/EIS/EIR, BLM conducted government-to-government consultation with 10 federally recognized Tribal governments in accordance with several authorities including, but not limited to, NEPA, the National Historic Preservation Act (NHPA), the American Indian Religious Freedom Act, Executive Order 13175, and Executive Order 13007. The BLM initiated consultation on November 21, 2007, prior to the publication of the Notice of Intent to prepare the Draft PA/EIS/EIR, reaffirmed its commitment to government-to-government consultation in the August 4, 2011 Notice of Intent (76 Fed. Reg. 47235), and provided other public notices about the project to provide reasonable notice of and seek input about how potential project-related changes could affect the use of sacred sites or their physical integrity. Individual government-to-government meetings with Indian tribes provide a separate forum for tribes to share information and concerns openly and candidly in an

individual context, apart from other consulting parties and about other issues not necessarily related to the Section 106 process. In addition to Section 106 consultation meetings with all consulting parties, BLM held individual meetings with interested Tribes along with other efforts, which included site visits, individual meetings with tribal members and tribal council members, undertaken by BLM as part of the government-to-government consultation process. These efforts are summarized in PA/EIS/EIR Section 5.2.3.

Information and major concerns raised through correspondence and shared during group and individual meetings with tribes, as well as the actions that were undertaken during the consultation process, revealed concerns about the importance and sensitivity of cultural resources on and near the SSFP site and concerns about cumulative effects to cultural resources. As a result of this consultation process, many important cultural resources that had been identified in the project study area were subsequently avoided by the footprint proposed as part of the Selected Alternative.

6.4 NHPA Section 106 Compliance

Pursuant to Section 106 of the NHPA and the implementing regulations, the BLM consulted with the California State Historic Preservation Officer (CA SHPO), the Advisory Council on Historic Preservation (ACHP), interested tribal members, other consulting parties, and federally recognized Tribes. Section 106 of the NHPA requires Federal agencies to take into account the potential effects of a proposed undertaking on historic properties eligible for or listed in the National Register of Historic Places. The steps in the NHPA Section 106 process are described in Section 5.2.2 of the PA/EIS/EIR. The BLM made adjustments to the proposed undertaking to avoid potential adverse effects. In the case of the Proposed Action and all action alternatives, all efforts were made to avoid direct effects to historic properties. The BLM's determinations and findings, provided in a letter to the SHPO and other consulting parties dated November 1, 2012, concluded that there will be no adverse effects on historic properties from this undertaking. On January 9, 2013, BLM completed the consultation process with a Documentation of Non-Response, Section 106 consultation with the State Historic Preservation Office, that described the consultation which had occurred for the Project and documented that none of the consulting parties or the SHPO responded to BLM's determination of no adverse effect within 30 days of when BLM's determination letter was issued. Based on BLM's determination that no adverse effects to historic properties would occur (36 CFR 800.5(b)), no MOA or Programmatic Agreement is required for the Project.

6.5 Endangered Species Act—Section 7 Compliance

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. It also requires consultation with the FWS in making that determination. On January 2, 2013, BLM initiated formal consultation with the USFWS under Section 7 of the ESA regarding the Project's potential impacts on desert tortoise, through the submission of a Biological Assessment (BA).

On March 4, 2013, the FWS sent a memorandum requesting the batching of two requests for formal consultation under ESA Section 7 – one for the SSFP (BA received on January 4, 2013), and the other for the Silver State South Project in Nevada (BA received on February 11, 2013). At issue in the combined Section 7 consultation were the effects of those projects on the federally threatened desert tortoise (*Gopherus agassizii*). The FWS reasoned that due to the (1) proximity of the projects, (2) timing of the consultations, (3) similarity between the effects of the projects, (4) fact that the same company proposed both projects, and (5) 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 FWS accepted a BA for each of the two projects. Consultation officially began on March 12, 2013, and BLM received a final BO on September 30, 2013. The Final BO is attached as Appendix 2 of this ROD. The FWS issued an errata for the BO on December 6, 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 Silver State South Project. Within the BO, BLM requested two project-specific incidental take statements associated with applicable Terms and Conditions and conservation measures for each of the covered projects to ensure clarity in agency and applicant responsibility with respect to each.

With respect to the SSFP, the entire Project site is desert tortoise habitat, although its quality varies and none of the Project site is within designated critical habitat. Fourteen adult desert tortoises were observed in the area of the Selected Alternative during spring 2012 surveys. As a result, the PA/EIS/EIR included a variety of mitigation measures mandating specific survey, handling, translocation, and compensation requirements for the desert tortoise. To offset the loss of desert tortoise habitat the BLM and the Applicant proposed several projects that would be funded by the Applicant including:

- The retirement of 53,000 ac of the Clark Mountain Grazing Allotment, of which 40,000 ac is potential Desert Tortoise habitat², consistent with PL 112-74, Section 122(b) and BLM policy;³
- Restoration along 20 acres of the Kern River Pipeline ROW located north of the Project site and within a 6.4-acre area along the west side of Whiskey Pete's, located approximately 1.5 miles northeast of the Project site; and
- The restoration of 30 closed/unauthorized routes located within the Eastern Mojave Recovery Unit and fencing along 13 miles of Morningstar Mine Road, located within the Mojave National Preserve.

Implementation of these measures is mandatory and has been included as a stipulation in the Project's ROW grant. To address potential habitat connectivity impacts, careful consideration was taken in the siting and modification of the Project to allow for reasonable desert tortoise movement around the Project site. Although the BO acknowledged that tortoises may occasionally move through Stateline Pass to the north of the project, it concluded that Stateline Pass was unlikely to support a long-term population of tortoises, and does not provide a demographic connection between Ivanpah Valley and areas outside of Ivanpah Valley. Specifically, the BO observed, in concurring that the Project is not likely to measurably affect connectivity with Ivanpah Valley, that:

The northern edge of the Stateline Project would be located approximately 0.9 mile from the southernmost point of the eastern arm of the Clark Mountains. The resulting linkage between the Stateline facility and the Clark Mountains would connect desert tortoises to the northeast of the project with animals to the west, in the remaining habitat west of Interstate 15. Although this width is less than a single desert tortoise lifetime utilization area (i.e., 1.4 miles), the linkage will

² As explained in the PA/EIS/EIR, the BLM notified the Clark Mountain Grazing Allotment leaseholder by certified letter on October 19, 2011, that the land within the Project site was being considered for another purpose that could result in a partial or complete reduction in the leaseholder's permitted use of the Project area. On February 21, 2013, the leaseholder signed a waiver allowing BLM to cancel, in whole or part, the lease as a result of the proposed alternative land use within the Project footprint.

³ Future management actions by the BLM concerning the retired portion of the Clark Mountain Grazing Allotment will consider the mitigation purposes for which the retirement will be obtained, consistent with PL 112-74, Section 122(b).

likely remain functional because its length is very short; the southernmost extension of the Clark Mountains is shaped like a peninsula and the linkage becomes wider immediately to the east and west of the narrowest point. Additionally, even without the proposed project, the width of the area where Stateline detected desert tortoises south of the “peninsula” is less than 1.4 miles because the substrate becomes silt-like as the alluvial fan levels out and approaches Ivanpah Dry Lake. (FWS, 2013).

Based on the foregoing, after reviewing the current status of the desert tortoise, environmental baseline for the action area, the effects of the Proposed Action and Silver State South, and cumulative effects from existing development in the Ivanpah Valley on the desert tortoise, the BO concluded that the SSFP is not likely to jeopardize the continued existence of the desert tortoise. This determination was based on the following considerations:

- 1) The USFWS does not expect that the issuance of a ROW grant for the Proposed Action 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 to minimize injury and mortality of desert tortoises including translocation of desert tortoises from the Project site. 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.
- 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 0.3 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 is likely to impair connectivity to some degree in the linkage between the Project site and the Clark Mountains. This linkage has already been compromised to a large degree by the ISEGS, DesertXpress, Primm, and the Large-Scale Translocation Site. Additionally, and as discussed above, the point of constriction that the Proposed Action would cause would be short in length and natural features in that area also pose constraints to connectivity. The BLM and the Applicant will fund and implement numerous measures to improve management of the remaining habitat for desert tortoises in the surrounding area. These measures include expanding the Ivanpah DWMA by approximately 42 square miles; this change in management direction would increase the emphasis on protection of desert tortoises in the remaining habitat.

The BO also identified reasonable and prudent measures that would reduce adverse impacts to the species, compliance with which is a condition of the ROW grant.

With respect to the overall impact to desert tortoises in the area of the Project, the BO concluded that expansion of the DWMA in California and the designation of an ACEC in Nevada 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, 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.

6.6 California Department of Fish and Wildlife

The CDFW (formerly Department of Fish and Game) has the authority to protect water resources of the state through regulation of modifications to streambeds, under Section 1602 of the Fish and Game Code. The BLM and the Applicant have provided information to CDFW to assist in their determination of the impacts to streambeds, and identification of permit and mitigation requirements.

The CDFW is a trustee agency that has jurisdiction over CEQA projects that involve fish and wildlife, rare and endangered native plants, wildlife areas, and ecological reserves. Although CDFW does not have authority to approve or disapprove of the Proposed Action, the County, as the lead CEQA agency for purposes of permitting water wells, has consulted with CDFW. The CDFW has commented on the Draft and Final EIS/EIR, and has made recommendations regarding those resources within its jurisdiction. Those recommendations, along with detailed comments on the Desert Tortoise translocation plan and comments on the technical studies, have been considered. Consultation with the CDFW has been ongoing with the Applicant, BLM and CDFW to resolve concerns with the accounting for all desert tortoises that may occur on the site. The applicant will be required to obtain a subsequent permit and meet those information requirements prior to construction.

6.7 Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act

The loss of active migratory bird nests or young is regulated by the Federal Migratory Bird Treaty Act (MBTA) and by California Fish and Game Code section 3503. The Bald and Golden Eagle Protection Act (BGEPA) prohibits any form of possession or taking of either bald eagles or golden eagles, which is defined as to “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, disturb, or otherwise harm eagles, their nests, or their eggs.”

The PA/EIS/EIR included evaluation of Project impacts associated with both migratory birds and golden eagles, based on the Bird and Bat Conservation Strategy developed by the Applicant, in consultation with BLM, USFWS, and CDFW. In accordance with BLM Instruction Memorandum 2010-156 dated July 9, 2010, BLM made a determination that the project is not likely to result in the take of golden eagles and would not disrupt essential breeding behavior. This conclusion, and the supporting rationale, was provided to the FWS in a letter dated April 22, 2013. The letter summarized observed golden eagle activity in the vicinity since 2010, and concluded that the existing projects in that area had not affected behavior.

The BLM’s April 22, 2013 letter also summarized the Applicant’s commitments for conservation measures, as specified in their Bird and Bat Conservation Strategy, and concluded that the document included the same essential elements as an Eagle Conservation Plan (BBCS). The BBCS was prepared consistent with APM Wild-5 and MM Wild-11 and Wild-12 found in the PA/EIS/EIR. It includes a number of different conservation measures designed to minimize the Project’s impacts on migratory birds and golden eagles, including specific measures to be implemented during construction, post construction monitoring and reporting. 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.

The BLM acknowledges that preliminary monitoring of other utility-scale solar energy projects in the CDCA has shown avian fatalities have occurred in association with solar project development. Because the current information is preliminary and the implications of it are still being evaluated, the BLM has determined that this information does not represent significant new circumstances or information relevant

to environmental concerns under NEPA, and does not require supplementation of the current analysis. Also, as noted above, MM-Wild-11 requires implementation of a BBCS that includes avian mortality monitoring that will provide additional data for the BLM and USFWS to evaluate. The BLM will continue to monitor this and other solar energy projects within the CDCA, and if it becomes necessary, BLM may amend the terms and conditions under the applicable grants per 43 CFR 2805.15.

7.0 Mitigation Measures

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 SSFP have been adopted by this ROD. The ROW grant authorizations are subject to the following measures, terms, and conditions:

Terms and Conditions in the USFWS BO, provided in Appendix 2 of this ROD, as such may be amended over time; and Avoidance, Minimization, and Mitigation Measures provided in PA/EIS/EIR Chapter 4, *Environmental Consequences*, as modified, which are provided in their final form in Appendix 4 of this ROD. The Environmental Construction and Compliance Monitoring Program (ECCMP) provided in Appendix 5 of this ROD.

Subsequent to publication of the Final EIS/EIR, BLM identified additional clarifications to the mitigation measures as published in that document. The final measures are provided in Appendix 4, along with the rationale for the clarification being made. These measures, terms, and conditions are determined to be in the public interest pursuant to 43 CFR 2805.10(a)(1) and have been incorporated as terms and conditions of the ROW grant. Failure on the part of the Applicant to adhere to these terms and conditions could result in various administrative actions up to and including a termination of the ROW grant and requirement to remove the facilities and rehabilitate disturbances.

Additional mitigation may be necessary to mitigate certain potential effects of the project under State standards (including CEQA) in connection with discretionary approvals from the County and other entities. Those measures are outside of BLM's jurisdiction and are not associated with the scope of this ROD; however, the ROW grant does require generally that the applicant comply with all applicable state standards.

8.0 Monitoring and Adaptive Management

A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation (40 CFR 1505.2(c)). Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation and other conditions established in the PA/EIS/EIR or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. As the Federal lead agency for the SSFP under NEPA, BLM is responsible for ensuring compliance with all adopted mitigation measures for the project in the PA/EIS/EIR. The Project's ECCMP, attached as Appendix 5 to this ROD, facilitates that objective.

Adaptive management has been incorporated into the mitigation measures and ECCMP adopted for the Selected Alternative. Adaptive management is a system of management practices based on clearly identified outcomes, monitoring to determine if management actions are meeting outcomes, and, if not, facilitating management changes that will best ensure that outcomes are met or to reevaluate the outcomes.

9.0 Public Involvement

9.1 Scoping

The NOI was published in the Federal Register (FR; Volume 76, No. 150) on August 4, 2011. The BLM and San Bernardino County hosted one public scoping meeting on Wednesday, August 31, 2011, from 6:00 pm to 8:00 pm at the Primm Valley Golf Clubhouse with a total attendance of 44 individuals. The BLM also established a website that described the project, the process, and various methods for providing public input, including the phone number where BLM's Project Manager for the project could be reached, physical addresses where project documents could be reviewed, and an e-mail address where comments could be sent electronically. Results of scoping were discussed in the Draft PA/EIS/EIR and are detailed in the scoping report available as part of this project record and on the BLM website.

9.2 Public Comments on the Draft PA/EIS/EIR

The Notice of Availability of the Draft PA/EIS/EIR was published in the Federal Register on November 23, 2012 (77 Fed. Reg. 70182). Three public comment meetings were held to provide information on the Draft EIS/EIR and solicit public comments. These meetings were held at:

- Primm Valley Golf Club, January 9, 2013, at 2:00 pm.
- Primm Valley Golf Club, January 9, 2013, at 6:00 pm
- Holiday Inn Express, Barstow, California, January 10, 2013, at 6:00 pm.

The public comment period on the Draft EIS/EIR closed on February 21, 2013. Seventy-six comment letters were received and provided as Appendix F to the Final PA/EIS/EIR. Responses to all letters were provided in Appendix G of the Final PA/EIS/EIR, and all comments received from agencies, members of the public, and internal BLM review were considered and incorporated as appropriate into the Final PA/EIS/EIR. Input received resulted in the addition of clarifying text, modification of the project footprint to avoid resource conflicts, and changes to the site preparation method to reduce ground disturbance and vegetation removal. These changes were to the physical aspect of the project and did not significantly change proposed land use plan decisions.

9.3 Public Comments on the Final PA/EIS/EIR

The BLM received three comment letters following the publication of the NOA for the Final PA/EIS/EIR:

- California Department of Fish and Wildlife, November 26, 2013;
- Clark County Department of Aviation (Clark County), December 10, 2013;
- U.S. Environmental Protection Agency (EPA), December 16, 2013; and
- Laborers International Union of North America (LiUNA), Local Union 783, February 4, 2014.

While there was no comment period provided on the Final PA/EIS/EIR, nor was one required under NEPA, BLM did consider the comments made in these letters to the extent practical. This consideration did not result in changes in the design, location, or timing of the Selected Alternative in a way that would

cause significant effects to the human environment outside of the range of effects analyzed in the PA/EIS/EIR. Similarly, none of the letters identified new significant circumstances or information relevant to environmental concerns that bear on the project and its effects. To the contrary, revisions to the PA/EIS/EIR made on the basis of BLM's consideration of comments received did not result in new or different effects relative to the range of effects previously analyzed. The comments resulted in minor corrections to and clarifications of the PA/EIS/EIR, which are provided in Appendix 3. Attached at Appendix 6 is a response to the concerns raised in the letter submitted by LiUNA. The BLM determined that similar responses were not required for the letters from CDFW, Clark County, or the U.S. EPA.

9.4 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 SSFP and who has an interest that is or may be adversely affected by the planning decision may protest approval of the proposed Plan Amendment contained in the PA/EIS/EIR within 30 days from date the EPA publishes the Notice of Availability (NOA) in the Federal Register. Detailed information on protests may be found on the BLM Washington Office website: http://www.blm.gov/pgdata/content/wo/en/prog/planning/planning_overview/protest_resolution.html. Specifically, the plan amendment decisions subject to protest are: (i) whether to find the project location suitable or unsuitable for solar energy development, (ii) whether to amend the CDCA Plan to authorize the Stateline Project, and (iii) whether to modify the boundaries of the Ivanpah DWMA.

The BLM timely received 7 protest letters. The Director has resolved all protests. In general, protesters were not in support of the proposed plan amendments identified above 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 PA/EIS/EIR. Therefore, all protests were denied, and no changes were made to the decision as a result of the protests. Detailed information on protests can be found on BLM Washington Office's website: <http://www.blm.gov/wo/stlen/prog/planning/protestresolution.html>.

9.5 Availability of the Record of Decision

Electronic copies of this ROD with the approved Plan Amendment are available on the Internet at <http://www.blm.gov/ca/st/en/fo/cdd.html>. Paper and electronic copies may be viewed at the following locations:

California Desert District
22835 Calle San Juan De Los Lagos
Moreno Valley, California 92553

Needles Field Office
1303 S. Hwy. 95
Needles, California 92363

10.0 Consideration of Other BLM Plans and Policies

10.1 Relationship of the Selected Alternative to the Solar PEIS

The SSFP is not subject to the Solar PEIS ROD, or the CDCA Plan amendments made as a result of that decision. Appendix B of the Solar PEIS ROD defines "pending" applications as "any applications... filed within SEZs before June 30, 2009." The SSFP Applicant's initial CACA-048669 application was filed on December 14, 2006. Section B. 1.2 of the Solar PEIS ROD (p. 146) states, "Pending applications are not subject to any of the decisions adopted by this ROD." Consequently, the SSFP is not subject to the Solar

PEIS ROD or to the CDCA Plan amendments made in that decision. Instead, it remains subject to the pre-Solar PEIS ROD requirements of the CDCA Plan.

10.2 Conformance with the CDCA Plan

In furtherance of its authority under FLPMA, BLM manages public lands in the California Desert District, including the SSFP site, pursuant to the CDCA Plan, as amended. The CDCA Plan is a comprehensive, long-range plan that was adopted in 1980; it since has been amended many times. The CDCA is a 25-million-acre area that contains over 12 million acres of BLM-administered public lands in the California Desert, which includes the Mojave Desert, the Sonoran Desert, and a small part of the Great Basin Desert. By contrast, the site of the Selected Alternative includes approximately 1,685 acres of BLM-administered land in the CDCA.

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. As described in Section 3 of this ROD, the CDCA Plan has been amended to identify the SSFP site as a site specifically associated with power generation and transmission.

The SSFP site is classified as Multiple-Use Class (MUC) L (Limited Use) in the CDCA Plan. The Limited Use classification is intended to protect sensitive, natural, scenic, ecological, and cultural resource values. Public lands classified as Limited Use are managed to provide for multiple use of resources at a lower intensity, ensuring that sensitive values are not significantly diminished. Based on CDCA Plan Table 1, Multiple Use Class Guidelines, and CDCA Plan Chapter 3, Energy Production and Utility Corridors Element, solar generating uses are conditionally allowed in the Multiple Use Class L designation contingent on the CDCA Plan amendment process and NEPA requirements being met. Because the SSFP site was not identified in the CDCA Plan for such use when the SSFP application was filed, a CDCA Plan Amendment is required in connection with the approval for the Selected Alternative. The PA/EIS/EIR met the Plan's requirement that a NEPA analysis be conducted.

The CDCA Plan Amendment to identify the site of the Selected Alternative for solar energy generation is provided in the ROD through the following Land Use Plan amendment analysis.

10.2.1 Required CDCA Plan Determinations

As discussed in CDCA Plan, Chapter 7, BLM must make certain determinations in amending the CDCA Plan. The required determinations and how they were made for the CDCA Plan Amendment for the SSFP and the DWMA expansion are provided below.

Required Determination: Determine if the request has been properly submitted and if any law or regulation prohibits granting the requested amendment.

The Applicant's request for a ROW grant and the public comment requesting consideration of an expanded DWMA were properly submitted; the PA/EIS/EIR was the mechanism for evaluating and disclosing environmental impacts associated with both actions. No law or regulation prohibits granting the CDCA Plan Amendment.

Required Determination: Determine if alternative locations within the CDCA are available which would meet the applicant's needs without requiring a change in the Plan's classification, or an amendment to any Plan element.

Neither the Selected Alternative nor the DWMA expansion requires a change in the MUC classification for any area within the CDCA.

Required Determination: Determine the environmental effects of granting and/or implementing the applicant's request.

The PA/EIS/EIR evaluated the environmental effects of approving the CDCA Plan Amendment and the ROW grant application for the SSFP, as well as the impacts of the DWMA expansion.

Required Determination: Consider the economic and social impacts of granting and/or implementing the applicant's request.

The PA/EIS/EIR evaluated the economic and social impacts of the Plan Amendment, ROW grant, and DWMA expansion.

Required Determination: Provide opportunities for and consideration of public comment on the proposed amendment, including input from the public and from Federal, state, and local government agencies.

Opportunities for and consideration of public comment on the proposed amendment, including input from the public and from Federal, state, and local government agencies that were provided are described in Section 9 of this ROD.

Required Determination: Evaluate the effect of the proposed amendment on BLM management's desert-wide obligation to achieve and maintain a balance between resource use and resource protection.

The balance between resource use and resource protection is evaluated in the PA/EIS/EIR. The FLPMA Title VI, as addressed in the CDCA Plan, provides for the immediate and future protection and administration of the public lands in the California Desert within the framework of a program of multiple use and sustained yield, and maintenance of environmental quality. Multiple use includes the use of renewable energy resources, and, through Title V of FLPMA, BLM is authorized to grant ROWs for the generation and transmission of electric energy. The BLM is also authorized to establish DWMA in areas where necessary to protect resources which meet the criteria identified in the BLM ACEC Manual 1613. The acceptability of use of public lands within the CDCA for generation of solar energy is recognized through the CDCA Plan's approval of solar generating facilities on MUC L Class L lands after applicable requirements are met. The PA/EIS/EIR identifies resources that may be adversely affected by the approval of the SSFP and expanded DWMA, evaluates alternative actions that may accomplish the purpose and need with a lesser degree of resource impacts, and identifies mitigation measures that, when implemented, would reduce the extent and magnitude of the impacts and provide a greater degree of resource protection.

10.2.2 Conformance with CDCA Plan MUC Guidelines

The proposed Land Use Plan Amendments to be made by BLM include a site identification decision for the solar energy ROW, and the expansion of the DWMA. Because the proposed solar project and its alternatives are located within MUC L, the classification designation governs the type and degree of land use action allowed within the classified area. All land use actions and resource management activities on public lands within a MUC designation must meet the guidelines for that class. These guidelines are

listed in Table 1, *Multiple Use Class Guidelines*, in the CDCA Plan. The specific application of the MUC designations and resource management guidelines for a specific resource or activity are further discussed in the plan elements section of the CDCA Plan. In the Class L designation, BLM Authorized Officer (AO) is directed to use his/her judgment in allowing for consumptive uses by taking into consideration the sensitive natural and cultural values that might be degraded. The MUC L allows electric generation plants for solar facilities after NEPA requirements are met. The site for the SSFP meets the MUC Guidelines (as applicable to this project and site) for the reasons discussed in PA/EIS/EIR Section 4.6.3 (p. 4.6-1 et seq.).

The expansion of the DWMA is also consistent with MUC L guidelines. The MUC L is designated to protect sensitive, natural, ecological, and cultural resource values, and public lands designated as Class L are managed to provide for generally lower-intensity, carefully control multiple use of resources, while ensuring that sensitive values are not diminished. Appendix D of the PA/EIS/EIR evaluated the resources with respect to the relevance and importance criteria in BLM ACEC Manual 1613, and concluded that the desert tortoise population met the criteria. In addition, the DWMA already exists. The current action of expansion of the DWMA is an adjustment of those boundaries in response to the acquisition of better data related to the presence and movement of desert tortoise within the local area.

10.2.3 CDCA Plan Decision Criteria

The CDCA Plan defines specific Decision Criteria to be used by BLM in evaluating applications in the Energy Production and Utility Corridors Element of Chapter 3. The consideration of these Decision Criteria for the SSFP is described below.

Decision Criterion: Minimize the number of separate rights-of-way by utilizing existing rights-of-way as a basis for planning corridors.

This decision criterion is not applicable to the SSFP because the SSFP is not a corridor planning exercise.

Decision Criterion: Encourage joint-use of corridors for transmission lines, canals, pipelines, and cables.

The SSFP encourages the joint-use of corridors for transmission lines and cables and does not create conflicts. The solar plant site would partially overlap Corridors D and BB (also designated as the West-Wide Energy Corridor 225-27 in this area). The analysis in Section 4.6.3.1 of the PA/EIS/EIR documented that the amount of overlap could eliminate some potential uses of the corridors, but that the space remaining in the corridors would still allow future use of the corridors for linear projects.

Decision Criterion: Provide alternative corridors to be considered during processing of applications.

The BLM considered alternative footprints in evaluating the SSFP; however, each would require use of the same corridors for the gen-tie line to access the Ivanpah Substation.

Decision Criterion: Avoid sensitive resources wherever possible.

The extent to which the SSFP has been located and designed to avoid sensitive resources is addressed throughout the PA/EIS/EIR. The BLM and other Federal regulations and policies were considered in the original siting process used by the Applicant to identify potential sites for the project locations. The alternatives analysis considered whether the purpose and need of the project could be achieved with a

different build alternative, but with a lesser effect on sensitive resources. That analysis indicated that the Selected Alternative would have the lowest impacts to sensitive resources of any of the action alternatives.

Decision Criterion: Conform to local plans whenever possible.

As explained in Section 6.2 above, BLM initiated the period of Governor's Consistency Review for the PA/EIS/EIR in accordance with FLPMA (43 USC 1712(c)(9)) on November 15, 2013. The purpose of the review is to identify inconsistencies of the proposed PA with State and local plans, programs, and policies. No inconsistencies were identified. The entire SSFP is on BLM-administered lands and conforms to BLM land use plans, policies and regulations.

Decision Criterion: Consider wilderness values and be consistent with final wilderness recommendations.

There are no National Wilderness Areas or lands with wilderness characteristics within or adjacent to the solar plant site.

Decision Criterion: Complete the delivery systems network.

This decision criterion is not applicable to the SSFP.

Decision Criterion: Consider ongoing projects for which decisions have been made.

The BLM approved a ROW grant for the ISEGS, located to the west of the SSFP, in October 2010. The project is currently under construction, and is expected to become operational in 2014. The SSFP and Ivanpah SEGS will share the Ivanpah Substation. The BLM also approved a ROW grant for the Silver State North project, and is currently considering a ROW grant for the Silver State South project. These projects are outside of the CDCA in Nevada, but are located within a few miles of the SSFP. Impacts associated with all of these projects were considered in the cumulative analysis in the PA/EIS/EIR for the Proposed Action.

Decision Criterion: Consider corridor networks which take into account power needs and alternative fuel resources.

This decision criterion is not applicable to the SSFP. The project does not involve the consideration of an addition to or modification of the corridor network.

10.2.4 Revisions to Open Routes

In 2002, BLM updated access plans and routes in the Northern and Eastern Mojave Desert Management Plan (NEMO) Amendment to the CDCA Plan. The NEMO amendment assigned and/or revised access for off-highway vehicle (OHV) routes in the northern and eastern Mojave Desert. Currently, there are three open routes traversing the project site: Route 699226 (1.9 miles encompassed by the Selected Alternative), 699198 (2.0 miles), and 699238 (1.3 miles). As part of Project construction, the portions of these routes within the Project boundaries will be closed as the phased construction and fencing of the Project site occurs. In their place, new routes will be constructed around the perimeter of the facility, as shown in Figure 2, and will be designated as open routes.

The process for changing routes is described in the CDCA Plan Motorized Vehicle Access Element and BLM guidance on the Comprehensive Travel and Transportation Management (CTTM) program. Pursuant to BLM IM No. 2008-014 - Clarification of Guidance and Integration of Comprehensive Travel and Transportation Management Planning into the Land Use Planning Selection – the designation of individual routes within a Limited area is an implementation process that may be completed concurrent with the Land Use Plan, but is not a Land Use Plan decision. Changes to a travel network in a Limited area may be made through activity level planning or with site-specific NEPA analysis. They do not require a Land Use Plan amendment. Therefore, revision processes recognize the changing contexts and need for flexibility in allowing OHV public access on BLM-managed lands. The Motorized Vehicle Access Element of the CDCA Plan (page 82) describes the process for changing the designations of vehicle access routes as:

“Decisions affecting vehicle access, such as area designations and specific route limitations, are intended to meet present access needs and protect sensitive resources. Future access needs or protection requirements may require changes in these designations or limitations, or the construction of new routes...Access needs for other uses, such as roads to private lands, grazing developments, competitive events, or communication sites, will be reviewed on an individual basis under the authority outlined in Title V of FLPMA and other appropriate regulations. Each proposal would be evaluated for environmental effects and subjected to public review and comment. As present access needs become obsolete or as considerable adverse impacts are identified through the monitoring program, area designations or route limitations will be revised. In all instances, new routes for permanent or temporary use would be selected to minimize resource damage and use conflicts, in keeping with the criteria of 43 CFR 8342.1.”

The aforementioned process was used to revise the affected segments of the open routes within the Project site to closed routes. The perimeter maintenance roadways authorized under non-exclusive FLPMA right-of-way grants in connection with the Project will remain open for public use to connect around the perimeter of the solar facility to mitigate for the loss of closed routes across the Project site for the term of the Project’s ROW grant. Upon decommissioning of the Project, BLM will revisit the travel needs of the area, and determine whether changes are needed at that time.

11.0 Final Agency Action

11.1 Land Use Plan Amendment

It is the decision of BLM to approve the Proposed Plan Amendment to the California Desert Conservation Area Land Use Management Plan (CDCA Plan, 1980, as amended), to identify the project site as available for solar energy development and approve the SSFP, and to modify the boundaries of the Ivanpah DWMA to encompass 58,104 acres total, as shown in Figure 3 of this ROD. I have resolved all protests on the Proposed Plan Amendment 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.

Based on the recommendation of the State Director, California, I hereby approve the Proposed Plan Amendment. This approval is effective on the date this Record of Decision is signed.

Approved by:



Neil Kornze
Principal Deputy Director
Bureau of Land Management
U.S. Department of the Interior

2/14/14

Date

11.2 Right-of-Way Authorization and Route Designation

It is my decision to approve a solar energy right-of-way lease/grant to Desert Stateline, 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. It is further my decision to modify the configuration of open routes within the footprint of the solar project as described in this Record of Decision and Final EIS. This decision is effective on the date this Record of Decision is signed.

Approved by:



Neil Kornze
Principal Deputy Director
Bureau of Land Management
U.S. Department of the Interior

2/14/14

Date

11.3 Secretarial Approval

I hereby approve these decisions. My approval of these decisions 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 Subpart 4.400. Any challenge to these decisions, including BLM Authorized Officer's issuance of the right-of-way as approved by this decision, must be brought in the Federal District Court.

Approved by:



Tommy P. Beaudreau
Principal Deputy Assistant Secretary,
Land and Minerals Management
U.S. Department of the Interior

Feb 14, 2014

Date

APPENDIX 1
LOCATION MAPS

APPENDIX 2
BIOLOGICAL OPINION

APPENDIX 3
MINOR CLARIFICATIONS OF PA/EIS/EIR

The BLM prepared the PA/EIS/EIR for the SSFP in consultation with other agencies, taking into account public comments received during the FLPMA and NEPA process undertaken for the Project. The PA/EIS/EIR described the Proposed Action and alternatives (including the agency preferred alternative), analyzed the proposed CDCA Plan Amendment and Project decisions, and responded to written comments received during the public review period for the Draft PA/EIS/EIR (see Final PA/EIS/EIR Chapter 5, *Consultation, Coordination and Public Involvement*, and Appendix G, *Responses to Comments*). Review of the PA/EIS/EIR by the BLM and others has resulted in the minor corrections and clarifying statements listed below. Revisions to language as it appears in the PA/EIS/EIR are indicated as follows: Quoted language is *italicized*, new language is shown in *underscore*, and deleted language is shown in *strikethrough*. None of these minor corrections and clarifying statements affects the adequacy of the underlying NEPA analysis in the PA/EIS/EIR.

- The location of the proposed Southern Nevada Supplemental Airport, indicated by the number “21” shown on Figure 4.1-1, in the Final PA/EIS/EIR is incorrect. The actual location of the airport is further south, about halfway between the number “4” and the number “20”.
- The means of traffic access to the Southern Nevada Supplemental Airport in Section 4.16 has been clarified. The revised text is:

Operation of the Southern Nevada Supplemental Airport may incrementally increase traffic on I-15 at certain times; however, it is anticipated that the majority of traffic would occur on the I-15 between ~~Primm-Sloan~~ and Las Vegas Nevada. Conversely, the Southern Nevada Supplemental Airport may incrementally decrease traffic south of Sloan if people choose to travel by airplane instead of automobile.

- The discussion of potential impacts to air navigation in Section 4.18 has been clarified. The revised text is:

The closest major commercial service public airport that serves the valley is McCarran Airport in Las Vegas, nearly 24 miles northeast of the project. Two general aviation public airports (Henderson Executive Airport and Jean Sports Aviation Center) are closer, with the Jean Airport located approximately 15 miles northeast of the proposed project. The planned Southern Nevada Supplemental Airport (analysis of the airport is currently suspended) may be constructed north of Primm, approximately 3 miles northeast of the proposed project (FAA 2012). Although FAA has not made an examination of the glint and glare impacts of the proposed project, existing PV solar array projects installed near airports or on air force bases that have undergone FAA or U.S. Air Force review in the past have been determined to be “no hazard to air navigation.” The FAA is currently in the process of developing formal standards for glint and glare associated with PV solar arrays on and near airports, and conducts specific reviews at its discretion. ~~The SunPower Solar Module Glare and Reflectance Technical Note T09014 (SunPower 2009) notes that existing PV solar array projects installed near airports or on air force bases have passed Federal Aviation Administration (FAA) or Air Force standards, and been determined as “no hazard to air navigation”. The possible glint and glare from PV panels are at safe levels, and usually considerably lower than other common reflective surfaces. There would be no hazard to existing or planned airport operations from glint and glare effects of the proposed facility.~~

- The discussion of the planned removal of fencing at the Large-Scale Translocation Site (LSTS) on pages 4.22-13 and 4.22-48 has been clarified. The revised text in both locations is:

Removal of the fencing around the LSTS in Nevada west of I-15, which is ~~contemplated~~ planned for the future, would ~~will~~ improve connectivity between and among desert tortoise populations.

- The statement of the CEQA significance criterion for noise impacts on Page 4.9-2 was incorrectly modified in the Final PA/EIS/EIR. The correct criterion is:

NZ-3: Result in a substantial permanent ~~long-term~~ increase in ambient noise levels above levels existing without the project.

- The statement of the CEQA significance conclusion for noise impact NZ-4 was incorrectly modified in the Final PA/EIS/EIR. The revised text is:

Temporary noise during construction, as measured in dBa L_{max} would exceed the EPA standards of 45 dBa L_{eq} for indoors and 55 dBa L_{eq} for outdoors at the residence during individual pass-by events, as well as the County standard of 45 dBa L_{eq} at night. ~~Although these~~ However, these exceedances would be intermittent and temporary, they would still be significant and unavoidable, even with mitigation measures. ~~and would not be considered a significant impact, as the L_{max} values are not directly comparable to the L_{eq} standards. Therefore, the temporary noise would be a less than significant impact.~~

- The numbers of tortoise discussed in Section 4.22 of the FEIS/FEIR addressed only adult tortoises, and did not include all tortoises regardless of size. To respond to this comment, Table 4.22-1 is revised as follows:

Table 4.22-1. Desert Tortoise Survey Results

	Alternative 1 (Proposed Action)	Alternative 2	<u>Revised</u> Alternative 3	Alternative 4
Adult Tortoises¹				
Live Adult Tortoises Observed	16	<u>25</u>	<u>14</u>	<u>18</u>
Estimated Number of Adult Tortoises	40	<u>62</u>	<u>35</u>	<u>45</u>
Lower 95% Confidence Interval	15	<u>24</u>	<u>13</u>	<u>17</u>
Upper 95% Confidence Interval	107	<u>160</u>	<u>93</u>	<u>118</u>
<u>Juvenile Tortoises^{2,3}</u>				
Estimated Number of Juvenile Tortoises	<u>365</u>	<u>566</u>	<u>317</u>	<u>411</u>
Lower 95% Confidence Interval	<u>137</u>	<u>219</u>	<u>118</u>	<u>155</u>
Upper 95% Confidence Interval	<u>977</u>	<u>1461</u>	<u>853</u>	<u>1077</u>
¹ Adult tortoises are assumed to be greater than 160mm MCL.				
² Juvenile tortoises are assumed to be less than 160mm MCL.				
³ Juvenile estimates are based on size class ratios (Turner et al. 1987; Service 2011) applied to adult estimates.				
⁴ Adult (estimate of 18) and juvenile (estimate of 162) tortoises potentially encountered within linear project components are not included in the table above. These estimates are expected to be similar between each alternative.				
⁵ Adult (estimate of 2 during each calendar year) and juvenile (estimate of 18 during each calendar year) tortoises potentially encountered during the O&M phase for both the solar farm and linear components are not included in the table above. These estimates are expected to be similar between each alternative.				

- Additional comments were received which were on documents other than the EIS, or which did not require modifications to the EIS. Specifically, the CDFW provided technical comments on the sufficiency of the Tortoise Translocation Plan. Those comments are being addressed through revisions to that plan by the Applicant, in consultation with CDFW.
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APPENDIX 4
ADOPTED MITIGATION MEASURES

APPENDIX 5

ENVIRONMENTAL CONSTRUCTION AND COMPLIANCE MONITORING PROGRAM

APPENDIX 6

RESPONSES TO FEBRUARY 4, 2014 LETTER FROM
THE LABORERS INTERNATIONAL UNION OF
NORTH AMERICA, LOCAL 783
