

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

75 Hawthorne Street
San Francisco, CA 94105

November 5, 2013

Attn: Nancy Christ
Renewable Energy Project Manager
Bureau of Land Management
Las Vegas Field Office
4701 North Torrey Pines Drive
Las Vegas, NV 89130

Subject: Final Supplemental Environmental Impact Statement for the Silver State Solar South Project, Clark County, Nevada [CEQ# 20130277]

Dear Ms. Christ:

The U.S. Environmental Protection Agency has reviewed the Final Supplemental Environmental Impact Statement for the Silver State Solar South Project. Our review and comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA reviewed the Draft and Final Environmental Impact Statements for the Silver State Solar Energy Project and provided comments to the Bureau of Land Management on June 2, 2010 and October 8, 2010, respectively. We rated the 2010 Draft EIS as *Environmental Objections – Insufficient Information* (EO-2), primarily due to concerns over potential impacts to waters of the United States, as well as concerns about groundwater availability and the need for additional biological surveys. The 2010 Final EIS addressed our concerns about groundwater availability and included results from the most recent desert tortoise surveys, but did not provide clarification on the extent of waters, and impacts to these waters, as requested. Subsequently, the BLM authorized only Phase 1 (50 megawatts; Silver State North) of the Silver State Solar Energy facility.

In early 2011, the Applicant submitted a new Right-of-Way application for the Silver State South Project that encompassed an additional 5,610 acres. In October 2012, the BLM issued a Draft Supplemental EIS that included two new alternatives. The EPA reviewed the DSEIS and provided comments to the BLM on December 21, 2012. We rated the 2012 DSEIS as *Environmental Concerns – Insufficient Information* (EC-2), due to the fragmentation of key desert tortoise habitat in the Ivanpah Valley. We recommended that BLM consider repositioning the project or modifying its size to support a 250 MW facility, instead of a 350 MW facility, in order to allow for both the preservation of a suitable linkage corridor through key desert tortoise habitat and the minimization of impacts to jurisdictional waters, as required by Section 404 of the Clean Water Act.

We appreciate the efforts of BLM, the Applicant, and its consultants to respond to our comments on the 2012 DSEIS and the 2010 Draft and Final EISs. We are pleased to see that the Applicant, in consultation with the BLM, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers,

has developed a new Project layout that addresses our previous concerns. The new BLM Preferred Alternative would support a 250 MW facility and allow for a protected corridor of undisturbed desert tortoise habitat between the eastern edge of the Project footprint and the Lucy Gray Mountains. According to the FSEIS, the linkage corridor would be 1.26 miles wide at its narrowest point, with an average width of 1.53 miles. We note that the Biological Opinion for the project indicates that the narrowest point of the corridor would be 1.39 miles wide. We recommend that the BLM work with the U.S. Fish and Wildlife Service to resolve this discrepancy and clarify the minimum width of the corridor in the Record of Decision. The BLM Preferred Alternative would also avoid drainages delineated as jurisdictional waters of the US. We commend the Applicant for working closely with state and federal agencies to develop this new alternative that would both avoid jurisdictional waters and reduce impacts to desert tortoise.

In our previous comments on the DSEIS, we expressed concern about potential impacts to biological soil crusts. In response to our concerns, the BLM notes that stockpiling biological soil crusts for long periods of time is not typically effective. Further, the Applicant has agreed to provide \$50,000 in funding for a BLM study to analyze effective ways to mitigate the loss of cryptobiotic soils. We look forward to seeing the results of this study, and respectfully request that a copy of the final report be provided to this office when it is completed. In the meantime, we continue to recommend that BLM and the Applicant minimize the disturbance of cryptobiotic soils to the extent feasible.

We recommend that all mitigation measures, including specific criteria for successful mitigation, be adopted in the ROD, and be included as conditions in construction contracts and any other approvals, as appropriate, to minimize adverse environmental impacts to the extent possible. If any mitigation measures proposed in the FSEIS are not adopted, the ROD should provide the basis for the decision not to adopt them.

We are available to discuss all comments and recommendations provided. Please send one hard copy and one CD ROM copy of the ROD to us when they are filed with our Washington D.C. Office. If you have any questions, please contact me at 415-972-3311, or contact Ann McPherson, the lead reviewer for this project. Ann can be reached at 415-972-3545 or mcperson.ann@epa.gov.

Sincerely,

/s/

Angeles Herrera for
Jeff Scott, Director
Waste and Communities and Ecosystem Division

cc: Amy Lueders, Bureau of Land Management, Reno, NV
Patricia L. McQueary, U.S. Army Corps of Engineers, St. George, UT
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