

FINAL ENVIRONMENTAL ASSESSMENT

Invenergy Solar Development, LLC Luning Solar Energy Project

Decision Record

DOI-BLM-NV-C010-2015-0005-EA

U.S. Department of the Interior
Bureau of Land Management
Carson City District
Stillwater Field Office
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It is the mission of the Bureau of Land Management to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.

DOI-BLM-NV-C010-2015-0005-EA

**DECISION RECORD
INVENERGY SOLAR DEVELOPMENT, LLC
LUNING SOLAR ENERGY PROJECT
MINERAL COUNTY, NEVADA**

**Environmental Assessment
DOI-BLM-NV-C010-2015-0020-EA**

INTRODUCTION

Invenergy Solar Development LLC (Invenergy Solar) has proposed to construct, operate and decommission a 50 megawatt (MW) name-plate capacity solar photovoltaic (PV) generating facility (solar facility), referred to as the Luning Solar Energy Project (LSEP), in Mineral County, Nevada. Invenergy Solar is a subsidiary of Invenergy LLC, an international power generation company with projects in North America and Europe.

The LSEP would be developed on public lands administered by the Bureau of Land Management (BLM), Carson City District Office (CCDO), Stillwater Field Office (SFO). The proposed location is approximately 3 miles north of Luning, Nevada, along State Highway 361. Luning is a small, unincorporated town on U.S. Highway 95 between Hawthorne and Tonopah, Nevada (Appendix B, Map B-1 Vicinity Map). The solar facility would be constructed on approximately 560 acres in section 15, S½SW¼; section 16, S½S½; section 21, N½N½; and section 22, N½N½, T. 8 N., R. 34 E., MDM.

The potential environmental impacts from the Proposed Action and No Action Alternatives were evaluated in EA# DOI-BLM-NV-C010-2015-0020-EA. Based on the analysis of potential environmental impacts detailed in the EA, it was determined that the impacts associated with the Proposed Action are not considered significant and therefore an environmental impact statement (EIS) will not be prepared. This is documented in the attached Finding of No Significant Impact (FONSI).

BACKGROUND

The SFO previously prepared the Luning Solar Energy Right-of-way Grant EA (DOI-BLM-NV-C010-2009-0017-EA) in July 2009 in response to a solar energy right-of-way (ROW) application from Luning Solar Energy LLC for a similar project in the same location. A FONSI was reached and the BLM issued a ROW grant (serial no.: N-85215) on July 15, 2010 to Luning Solar Energy LLC. The company constructed a small solar measurement station within the project area in early 2011, but did not develop a solar energy generating facility. The ROW was voluntarily relinquished in January, 2013 after the solar measurement station was removed. A new SF-299 ROW application was received from Invenergy Solar on July 31, 2013 which closely matched the Luning Solar Energy LLC ROW in terms of project area size and facilities.

On July 31, 2013 the Bureau of Land Management (BLM), Carson City District (CCD), Stillwater Field Office (SFO) received a solar energy right-of-way (ROW) SF-299 application from Invenergy Solar Development, LLC (Invenergy Solar) to construct, operate, and

decommission a 50 megawatt (MW) utility-scale PV solar generation facility on approximately 560 acres of BLM-administered land in Mineral County, Nevada. The project would use ground-mounted PV panels with single axis trackers which rotate to follow the sun. Associated with the PV panels would be an electrical collection system to connect power inverters and transformers to a substation within the solar facility (project substation). A control house next to the project substation would house protective relays and communications infrastructure. A 120 kilovolt (kV) generation-tie transmission line (gen-tie line) would connect the project substation to the existing Table Mountain substation, owned by NV Energy.

Two 40-acre mineral material sites, with access roads, are proposed as potential sources for aggregate and borrow material; the two sites could be designated as community pits for future use by Mineral County, private citizens, and other users. Commercial operation of the solar facility is expected to last for 30 years.

PUBLIC INVOLVEMENT

The SFO reviewed the ROW application from Invenenergy Solar, beginning in September 2013, for conformance with the variance area policies identified in the Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Solar PEIS) which is available to the public on the webpage <http://solareis.anl.gov/>. The Approved Resource Management Plan Amendments/Record of Decision (ROD) for the Solar PEIS was published on October 24, 2012.

A preliminary meeting with the applicant was held to discuss the status of BLM land use planning in the area, potential land use and siting constraints, potential environmental issues in the area, cost recovery requirements, application requirements, project description requirements, associated timelines, and other topics affecting the proposal.

Initial review of the proposal by the SFO interdisciplinary team (ID team) found the location does not have major resource conflicts or other issues which would make the project infeasible. The area has adequate direct normal solar insolation levels to support a utility-scale solar facility, according to GIS data provided by the National Renewable Laboratory. The location is also near an existing transmission line and substation; new transmission line construction to connect to the electrical grid would be minimal. The proposed location would not conflict with landscape conservation strategies, nor would there be conflict with landscape protection, conservation, or restoration objectives established in documents such as the Carson City CRMP.

The BLM contacted several Federal, state, local, and tribal agencies during the preparation of the Luning Solar Energy Project EA to gain their input on the new application for the Luning Solar Energy Project. The SFO Field Manager attended the Mineral County Board of Commissioners meeting on February 19, 2014 to notify the board of the new proposal. The SFO Field Manager was included in the agenda for the board meeting, which was adequately noticed by the Mineral County Board of Commissioners. Neither the board members nor members of the public expressed issues or resource concerns associated with the LSEP during the meeting. As a part of the variance review, the SFO also considered public comments received during the preparation

of the previous EA. The public had opportunities to comment on the previous EA at two board meetings and during a 30-day public review period.

Comments were received from the Nevada Division of State Lands (NDSL) as a result of this notice and pertained to managing facility lighting to reduce effects from stray lights on the surrounding landscape at night. Internal review, coordination with other government agencies, and public outreach did not indicate a need to recommend changes to the proposal during the variance review. The location does have natural resource values which need to be considered; none were at a level to suggest the LSEP should be rejected at the variance review stage without completing the EA process.

Following review of the variance process documentation submitted by the SFO, the BLM Director gave concurrence for the SFO to process the ROW application from Invenergy Solar on July 14, 2014. The variance review documents are attached in Appendix A of the EA.

During internal review of the draft EA, the BLM Washington D.C. Office also suggested changes and comments. The comments received were based on the need for off-site mitigation. This mitigation has been included in Chapter 3 of the EA as mitigation for noxious weeds and vegetation.

The EA and draft FONSI were made available for a 30-day public review and comment period on May 8, 2015 until June 8, 2015. The Carson City District (CCD) published a news release on May 8, 2015 that was sent to media outlets listed on the Nevada BLM State Office media list. Emails stating the availability of the EA and Draft FONSI were sent to the Nevada State Clearinghouse and the U.S. Navy, Naval Air Station Fallon on May 8, 2015. Additional notification of the availability of the EA and Draft FONSI was made through the Nevada State Clearinghouse to 89 State and Federal agencies on May 8, 2015. A hard copy of the document and notification regarding the comment period was made to the grazing permittee during the comment period.

Per 36 CFR Part 800 and 43 CFR Part 8100 (BLM), as amended, a consultation letter with a general summary of the current proposed project, including a map, was sent to the regional tribes whose traditional cultural boundary has been determined to be within the vicinity of the proposed Luning Solar Energy Project. The BLM consulted with the following tribes regarding the proposed project: Fallon Paiute-Shoshone Tribe (FPST), Walker River Paiute Tribe (WRPT), and Yomba Shoshone Tribe (YST). The FPST were sent a letter on July 7, 2008 and again on June 12, 2014. The WRPT were sent a letter on July 15, 2009 and again on June 12, 2014. The YST were sent a letter on July 23, 2009 and again on June 12, 2014. Correspondence, face to face meetings and phone calls in the past with the Tribes have provided opportunity to document any Tribal concerns with the location of the proposed Luning Solar Energy Project since July of 2000 when the original proposal was received. No formal comments detailing any concerns has been brought forward by the Tribes to date, but consultation is ongoing.

The EA was also made available by hard copy at the Carson City District Office and on the District's webpage at: http://www.blm.gov/nv/st/en/fo/carson_city_field/blm_information/nepa.html and the Project's ePlanning webpage at: <http://1.usa.gov/1IGEtzu>. During the

comment period, comment letters were received from eight State agencies and non-governmental organizations. Minor non-substantive changes were made to the EA as a result of these comments; most changes were for clarification purposes. Refer to Appendix E: Response to Comments in the Final EA.

DECISION

Based on the analysis in the *Invenergy Solar Development LLC, Luning Solar Energy Project* EA# DOI-BLM-NV-C010-2015-0020-EA, it is my decision to issue a right-of-way (ROW) grant to Invenergy Solar Development LLC which implements the Proposed Action and Applicant Committed Mitigation Measures as described in Chapter 2 of the EA with BLM proposed mitigation measures as identified in Chapter 3 of the EA document. This decision is contingent on meeting all terms and conditions outlined in the right of way grant and mitigation measures identified in the EA. The mitigation measures are included in Chapter 3 of the EA and reiterated below in this Decision Record.

Additionally based on the analysis in the *Invenergy Solar Development LLC, Luning Solar Energy Project* EA# DOI-BLM-NV-C010-2015-0020-EA, it is my decision to assign an interim VRM Class IV objective to allow for management decisions consistent with the resource allocations for the area until such time as permanent objectives are designated in the Carson City District Resource Management Plan revision. Once the Resource Management Plan is final, the management decision regarding VRM would supersede the interim VRM objectives established through this EA and decision should they vary.

It is also my decision to establish the two mineral material sites identified in Chapter 2 of the EA for use during construction and operations of the LSEP and to make these materials available to the public, after construction of the LSEP, by designating the sites as community pits.

1 Approve the SF-299 and Plan of Development submitted by Invenergy Solar Development LLC on July 31, 2013.

This management decision for the Luning Solar Energy Project is issued pursuant to 43 Code of Federal Regulations (CFR) §2800. This Decision is effective immediately upon signature and acceptance of the ROW grant by both parties (BLM and Invenergy), and payment of rental and monitoring fees. This decision will remain in effect while appeals are pending before the Office of Hearings and Appeals (OHA) unless OHA grants a stay under §4.2 I (b) of this title. The SF-299 Right of Way Application and Plan of Development for the Project is hereby approved subject to the terms and conditions of the ROW grant and mitigation measures identified below for implementation of the Project. Invenergy Solar Development LLC must conduct activities as described in the Plan of Development (as described in Chapter 2 of the EA under the Proposed Action), in accordance with the terms and conditions attached to the ROW grant and the mitigation measures contained in this Decision.

The rationale for the attached FONSI supports this decision. The Proposed Action coupled with the ROW terms and conditions, and mitigation measures detailed in Chapter

3 of the EA and listed in this document, have led to my decision that all practicable means to avoid or minimize environmental harm have been adopted and significant impacts will not result from implementation of the Proposed Action as identified in the EA. This decision is consistent with the 2001 Carson City Field Office Consolidated Resource Management (CRMP).

2 Establish Interim Visual Resource Management Class

This decision for establishing this area as an interim Visual Resource Management Class IV for the Luning Solar Energy Project is issued pursuant to Section 102(a)(8) of the FLPMA and guidance described in BLM Manual 8400, with additional guidance provided in Manual H-8410-1 (Visual Resource Inventory) and H-8431 (Visual Resource Contrast Rating). This section of the FLPMA established the policy that public lands be managed in a manner that protect the quality of scenic values (43 USC §1701(a)(8)). To meet this responsibility, the BLM utilizes the VRM system which is described in these BLM manuals.

The rationale for the attached FONSI supports this decision. Additionally, based on the analysis in the Invenenergy Solar Development LLC, Luning Solar Energy Project EA# DOI-BLM-NV-C010-2015-0020-EA, it is my decision to assign an interim VRM Class IV objective to allow for management decisions consistent with the resource allocations for the area until such time as permanent objectives are designated in the Carson City District Resource Management Plan revision. Once the Resource Management Plan is final, the management decision regarding VRM would supersede the interim VRM objectives established through this EA and decision should they vary. The primary resource use within the LSEP is grazing and energy development, thus establishing an interim VRM Class IV objective would be in compliance with current guidelines and policy for VRM.

The visual contrast rating analyses for all four KOPs selected for the LSEP found the solar facility would be visible and would create a strong contrast with the surrounding landscape. The Applicant Committed Mitigation Measures in Section 2.1.6 of the EA (and included below in this decision) which include the use of complimentary colors on as many surfaces as practicable, matching aggregate and borrow material color to the surrounding landscape to the extent practicable, and the use of directional, motion activated nighttime lighting, would reduce the contrast. However, since the degree of contrast and the modification imposed on the landscape by the LSEP would fall within the parameters of VRM Class IV objectives, the LSEP would be in conformance with VRM guidelines and policy.

3 Establish Two Mineral Material Sites

This management decision for authorizing use and establishment of two mineral material sites for use in the construction of the LSEP is issued pursuant to 43 Code of Federal Regulations (CFR) §3600.

The two 40-acre mineral material sites that will be established as potential sources of aggregate and borrow material for the LSEP are as follows:

Material Site 1 is approximately 1 mile north of the PV field in the E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 10, and the W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of section 11, T. 8 N., R. 34 E., Mount Diablo Meridian. The site is on the east side of State Highway 361, directly north of an existing NDOT material site ROW (CC-021185). The site would be accessed from the highway using a new road to avoid the NDOT material site (Appendix B, Map B-3, Material Site 1).

Material Site 2 is located approximately 4 miles west-northwest of Luning in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of section 25, T. 8 N., R. 33 E., MDM. The site is on the south side of U.S. Highway 95, directly east of another existing NDOT material site ROW (N-38418). The site would be accessed from the highway using a new access road to avoid the NDOT material site (Appendix B, Map B-4, Material Site 2).

4 Mitigation Measures Identified in Chapters 2 and 3 of the EA.

Invenergy will comply with all terms and conditions attached to the ROW grant (attached) and Applicant Committed Mitigation Measures as stated below.

Air Quality

- A surface area disturbance permit would be obtained from the NDEP Bureau of Air Pollution Control to construct and operate the site in accordance with permit conditions.
- Water would be applied to roads, parking areas, staging areas, and other disturbed areas, as needed, to reduce dust.
- Signs would be posted throughout the project area to remind workers to maintain slow speeds to reduce dust and promote safety.

Cultural Resources

- Cultural (historic or prehistoric site or object) or paleontological resources or Native American human remains, funerary items, sacred objects, or objects of cultural patrimony discovered by the holder, or any person working on their behalf, during the course of activities on federal land would be immediately reported to the Authorized Officer by telephone, followed by written confirmation. All operations in the immediate area, generally within 100 meters, of such discovery would be suspended and the discovery protected until an evaluation can be made by the Authorized Officer.
- For cultural resources other than Native American human remains, funerary items, sacred objects, or objects of cultural patrimony, this evaluation would determine the significance of the discovery and what mitigation measures would be necessary to allow the activities to proceed. The grant holder would

be responsible for the cost of evaluation and mitigation. Any decision on treatment and/or mitigation would be made by the Authorized Officer after consulting with the grant holder. Operations may resume only upon written authorization to proceed from the Authorized Officer.

- Invenergy Solar would inform all persons working in the project area that knowingly disturbing cultural resources or collecting artifacts is prohibited.

Native American Religious Concerns

- For Native American human remains, funerary items, sacred objects, or objects of cultural patrimony the holder would stop activities in the immediate vicinity of the discovery and protect it from activities for 30 days or until notified to proceed by the Authorized Officer. The grant holder would be responsible for the cost of consultation, evaluation, and mitigation. Any decision on treatment and/or mitigation would be made by the Authorized Officer after consulting with the grant holder.

Sensitive Plants

- Cactus and yucca plants would be avoided if possible. With BLM and State of Nevada approval, cactus and yucca plants that cannot be avoided would be transplanted to nearby suitable habitat.

Visual Resources

- To the extent practicable, solar modules, inverters, transformers, buildings, and other structures would be manufactured or painted a complimentary color to reduce the visual contrast with the surrounding landscape in coordination with BLM recommendations.
- To the extent practicable, aggregate and borrow material would match the color of the existing surface.
- Motion-activated lighting would be installed on the control house, on the access gates, and throughout the PV field for access during non-daylight hours. Lighting would be directed downwards towards the project facilities to limit area light pollution.

Weeds

- New infestations of invasive, non-native weeds would be treated promptly to prevent them from being spread off-site.

In addition Invenergy will also institute the following mitigation measures as part of the Proposed Action to reduce or eliminate impacts to resources:

Livestock Grazing

- Cattleguards would be installed on the highway and the two separate sections of the PV field would be connected by additional fencing to prevent livestock

from funneling into the gap and potentially being struck by vehicles. Fencing not intended to exclude access to the PV fields would be designed to meet BLM and NDOT requirements for wildlife passage and highway safety.

Noxious, Invasive, and Non-native Species

- A weed abatement plan would be submitted prior to any surface disturbance associated with the LSEP, to insure weeds are identified and managed in the appropriate manner. The plan should include the following:
 - A pre-disturbance survey of the project area to identify existing invasive species;
 - Locations would be marked with a Global Positioning System (GPS) and mapped, followed by locations being flagged;
 - Appropriate treatment methods would be identified by the applicant;
 - Weed-free staging areas would be identified for project construction;
 - Best Management Practices (BMPs) to prevent erosion of the job site and the potential transport of weedy material on to, or off of, the job site during rainfall and storm-water events;
 - Procedures for insuring seed and other plant materials would be checked and certified weed-free (weed count in compliance with State and Federal seed laws);
 - Monitoring methods for treated areas and new infestations over the life of the LSEP, including final reclamation, would be identified;
 - A treatment/monitoring schedule.

- Invenergy Solar would develop a plan to address noxious and invasive weeds on approximately 560 acres (the same size area as where the PV panels would be installed) in the vicinity of the solar facility. The plan would be targeted to address areas where the most benefit would be realized, such as along public roads and other areas where existing weed infestation may be spread from. Specific treatment areas, treatment methods, targeted noxious and invasive weed species, and monitoring periods would be identified by Invenergy Solar and included in the plan in coordination with BLM specialists and local cooperating agencies who manage weeds in the area, prior to receiving a Notice to Proceed. Funding for the plan would be provided by Invenergy Solar when commercial operations begin.

The above mitigation measures also apply to Vegetation and General Wildlife.

Vegetation

- Where practicable, vegetation would not be cleared from the PV field prior to construction. Post construction, an appropriate seed mix of low posture perennial vegetation could be seeded in areas where minimal disturbance by operation and maintenance activities occurred.

Visual Resource Management

- Where practicable, all new structures should be painted using dark greens, browns or tans similar to Beetle, Juniper Green, or Shadow Gray, as found on the BLM Standard Environmental Color Chart CC-001, to reduce visibility from areas most likely to be viewed by the public. Structures which cannot be painted or obtained in colors that are compatible with BLM Standard Environmental Color Chart CC-001 should be reported to the Authorized Officer, prior to installation, with justification.
- Vegetation removed during construction would be stockpiled and used as vertical mulching on areas with surface disturbance not needed for general operations of the facilities upon completion of the construction phase of the LSEP.
- The applicant would provide a Lighting Management Plan for review and approval. Motion-activated lighting should be installed on the control house, on the access gates, and throughout the solar arrays for access during non-daylight hours. Lighting would be directed downwards towards the project facilities to limit area light pollution. Light shields should be utilized on lighting units to deflect light away from the town of Luning, Highway 95 and Highway 361. Safety and general security lighting should be limited to the minimum illumination needed to achieve safety and security objectives to avoid unnecessary light pollution into the night skies.

The above mitigation measure also applies to Migratory Birds, Special Status Species (burrowing owls, special status raptors, special status passerines, pale kangaroo mouse, bats), and General Wildlife.

- Reclamation would be completed on all areas of surface disturbance within material sites when materials are depleted or the need for the site/s no longer exists. During excavation of material sites, topsoils and overburden would be placed in a low berm at the edge of the pits to provide screening from Highway 361 or 95 and would be used for surface reclamation when the material site is closed.
- If gen-tie line is constructed using metal poles, the surface finish would consist of self-weathering steel alloy or, if finished with galvanized coating, treated with weathering chemical. Where feasible, visual screening, such as using brown slats in chain-link fences or weathering chemicals on galvanized surfaces to reduce reflectivity and glare, would be utilized to reduce impacts to the viewshed.

General Wildlife

- Trash and food would be stored in closed and secured containers, which would be removed as necessary, to reduce the attractiveness to scavengers and predators, particularly ravens.

- Road-killed wildlife associated with the LSEP would be promptly removed to control scavenger and predator numbers, particularly ravens.
- To minimize the transport of vehicle-borne seeds, roots, or rhizomes, all vehicles and heavy equipment used for the completion, maintenance, inspection, or monitoring of ground disturbing activities would be free of soil and debris capable of transporting seeds. All such vehicles and equipment would be cleaned, either offsite in an approved facility or in designated areas approved by the BLM, prior to entering the LSEP. Special emphasis would be applied to the axles, frames, cross members, motor mounts, on and underneath the steps, running boards, and front bumper/brush guard assemblies.

The above mitigation measure also applies to Noxious, Invasive, and Non-native Species.

- To prevent entrapment of wildlife, all steep-walled trenches, auger holes, or other excavations would be covered at the end of each day or when long breaks in construction activity are expected. Fencing would be maintained around the covered excavations at night. For open trenches, earthen escape ramps would be maintained at intervals of no greater than ¼ mile. Any wildlife found would be safely removed and relocated by a trained wildlife biologist approved by the BLM.

Migratory Birds

- All surface disturbing activities should occur outside of the migratory bird nesting period (March 1 to July 31 for raptors and April 1 to July 31 for all other avian species). If surface disturbing activities are to occur during this period, pre-construction avian surveys would be conducted in appropriate habitats by qualified biologists (approved by the BLM) prior to surface disturbing activities commencing. The exact area to be surveyed would be based on the scope of the surface disturbing activities (as determined by the BLM). If ground disturbing activities do not take place within 14 days, the areas would need to be resurveyed. If nesting migratory birds are present, appropriate buffers determined by the BLM, in coordination with the NDOW/USFWS, would be applied until an approved biologist determines the young have fledged or the nest has failed.

The above mitigation measure also applies to Special Status Species (burrowing owls, special status raptors, special status passerines).

- Transmission lines and all electrical components should be designed, installed, and maintained in accordance with the APLICs Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Reducing Avian

Collisions with Power Lines (APLIC 2012) to reduce the likelihood of large bird electrocutions and collisions.

- Reflective markers should be installed on perimeter fencing, where appropriate, to reduce the likelihood of migratory birds colliding with the structure.
- Vegetation (invasive and native) around collision hazards, such as substations and the perimeter fence, would be removed as necessary to reduce foraging potential for raptors and decrease the likelihood of raptor fatalities from colliding with structures.

The above mitigation measures also apply to Special Status Species (burrowing owls, special status raptors, special status passerines) and General Wildlife (avian species and bats).

- Any nighttime construction would generally be avoided and specifically prohibited within the migratory bird breeding season (March 1 to July 31).

The above mitigation measure also applies to Special Status Species (burrowing owls, special status raptors, special status passerines).

- Wildlife mortalities (carcasses) found incidentally within and along the perimeter of the LSEP would be removed and disposed of to prevent the creation of attractant features for raptors and/or ravens.

The above mitigation measure also applies to General Wildlife.

- Vegetation around larger facilities, such as substations, would be removed as necessary to reduce foraging potential for raptors and/or ravens.
- A BBCS would be developed with the goal of reducing the potential risks of avian mortality resulting from construction and operation of the LSEP. The objectives of this Strategy would be to:
 - Identify baseline conditions for raptor and bat species currently present at the LSEP;
 - Identify construction and operational activities which may increase the potential of adverse effects to these species on and adjacent to the LSEP, including bird mortality associated with potential attraction to photovoltaic panels;
 - Specify steps which should be taken to avoid, minimize, and mitigate any potential adverse effects on these species; and
 - Detail long-term monitoring and reporting goals, including collection and reporting of bird carcasses.

The above mitigation measure also applies to Special Status Species (burrowing owls, special status raptors, special status passerines) and General Wildlife (avian species and bats).

Special Status Species - Plants

- Prior to any surface disturbing activities, a BLM approved botanist (approval would be based on sufficient experience in surveying for and transplanting cactus) would conduct pre-disturbance surveys and flag all cacti. Appropriate avoidance buffers to protect individual cactus plants would be established where practicable. In areas where avoidance is not practicable, all cacti within the permanent and temporary impact areas would be replanted immediately in undisturbed locations containing suitable habitat adjacent to the LSEP. Unless otherwise directed by the BLM botanist, all replanted cactus would be watered and otherwise maintained for a period of one year. The goal would be to achieve at least 80% survival of all transplanted cacti.

5 Mitigation Measures Identified by Invenergy and The Wilderness Society During Public Review of the EA.

During the Public Comment Period a letter from Invenergy Solar Development LLC and the Wilderness Society (TWS) was received by the Carson City District Office. This comment letter included additional applicant commitments that were proposed for inclusion in the Decision Record. These are identified below and incorporated into this decision:

- BLM, Invenergy Solar and TWS agree that based on the impacts analyzed in the EA, an appropriate off-site mitigation and monitoring contribution is an amount of, but not more than, \$140,000 (\$250 per acre for 560 acres) from Invenergy Solar. This cost per acre was determined through discussions between Invenergy Solar and the local conservation district. This contribution would cover the funding of specific off-site mitigation projects and any costs for ongoing monitoring for effectiveness of the mitigation actions.
- The off-site monitoring contribution will be paid to an entity to be determined and approved by BLM and will be disbursed in accordance with the approved mitigation and monitoring plan. Once the facility is producing power, Invenergy Solar will make an off-site mitigation and monitoring contribution of an amount of, but not more than, \$140,000, to fund the mitigation and monitoring plan, which will fulfill all of Invenergy Solar's off-site mitigation obligations.
- Invenergy Solar will develop a mitigation and monitoring plan in accordance with BLM procedures and in coordination with BLM specialists, local cooperating agencies, and interested non-governmental organizations prior to BLM issuing a Notice to Proceed (NTP) for LSEP. This plan will identify the organization to implement the mitigation and monitoring work.

RATIONALE

Upon analyzing the impacts of the Proposed Action and following issuance of the EA for public review, I have determined that implementing the Proposed Action with the Applicant Committed Measures as described in Chapter 2 of the EA, the terms and conditions attached to the ROW grant and the mitigation measures identified above in this decision (from Chapter 3 of the EA) will not have a significant impact to the human environment and that an EIS is not required. Refer to the attached FONSI.

AUTHORITY

The Proposed Action is in conformance with the Federal Land Policy and Management Act (FLPMA) of 1976, the CRMP adopted in 2001, the regulations at 43 CFR §2800 and §3600, and with current BLM policies, plans and programs. The Proposed Action is consistent in relationship to statutes, regulations and policies of neighboring local, County, State, Tribal governments and other Federal agencies.

The SF-299 ROW Application in combination with the preceding mitigation measures, ROW grant terms and conditions, and the attached FONSI show that all practicable means to avoid or minimize environmental harm have been adopted and that unnecessary or undue degradation of the public lands will not occur as a result of the proposed communication site expansion and improvements.

The Proposed Action is in conformance with the Carson City CRMP, even though it is not specifically provided for, because it is clearly consistent with Administrative Actions listed on page ROW-4 of the Right-of-way Corridors section and would comply with the Standard Operating Procedures listed on pages ROW-4 through ROW-6.

The Administrative Actions listed on page ROW-4 specify that all applicants for ROW grants, whether or not they are within corridors, are subject to standard approval procedures as outlined in the right-of-way regulations at 43 CFR §2800. These procedures include preparation of an EA, if applicable, in accordance with the National Environmental Policy Act (NEPA); a determination of compliance of the applicants proposed plan with applicable federal and state laws; consultation with federal, state, and local agencies; and any other action necessary to fully evaluate and make a decision to approve or deny the application and prescribe suitable terms and conditions for the grant or permit. Consultation with the public, including adjacent landowners, is to occur throughout the process.

APPROVAL

The *Luning Solar Energy Project* EA# DOI-BLM-NV-C010-2015-0020-EA and associated ROW Application are approved for implementation with incorporation of ROW Grant stipulations and the above described mitigation measures. This decision is effective immediately upon signature and acceptance of the ROW grant by both parties (BLM and Invenergy), and payment of rental and monitoring fees in accordance with Title 43 of the Code of Federal Regulations (CFR) at 2800.

Further the community pit designation and subsequent mineral material sales are approved as described in the Proposed Action contingent on meeting all stipulations and conditions of the associated sales contracts in accordance with Title 43 Code of Federal Regulations at 3600.

This Decision is in conformance with the National Environmental Policy Act of 1969 (P.L. 91-190) as amended (72 USC 4321 et.seq.); the Carson City Consolidated Resource Management Plan of 2001, the regulations at 43 CFR §2800 and §3600, the Federal Land Policy and Management Act and with current BLM policies, plans and programs.



Teresa J. Knutson, Manager
Stillwater Field Office
Carson City District Office



Date

APPEAL PROCEDURES

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR Part 4. If you appeal, your appeal must also be filed with the Bureau of Land Management at the following address:

Teresa J. Knutson, Stillwater Field Manager
BLM, Carson City District Office
5665 Morgan Mill Road
Carson City, NY 89701

Your appeal must be filed within thirty (30) days from receipt or issuance of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal.

Copies of the notice of appeal and petition for a stay must also be submitted to:

Board of Land Appeals
Dockets Attorney
801 N. Quincy Street, Suite 300
Arlington, VA 22203

A copy must also be sent to the appropriate office of the Solicitor at the same time the original documents are filed with the above office.

U.S. Department of the Interior
Office of the Regional Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, CA 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellants' success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.