

Appendix E: Responses to Comments

Comments were accepted on the *Invenergy Solar Development LLC, Luning Solar Energy Project* Environmental Assessment (EA), DOI-BLM-NV-C010-2015-0020-EA, and Draft Finding of No Significant Impacts (FONSI) for a 30 day public review period from May 8, 2015 through June 8, 2015; although comments received in a timely manner after this date were also considered.

Emails stating the availability of the EA and Draft FONSI were sent to the Nevada State Clearinghouse, The Wilderness Society 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. 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. 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 2009 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.

Although not required for an EA by regulation, an agency may respond to substantive and timely comments. Substantive comments: 1) question, with reasonable basis, the accuracy of information in the EIS or EA; 2) question, with reasonable basis, the adequacy of, methodology for, or assumptions used for the environmental analysis; 3) present new information relevant to the analysis; 4) present reasonable alternatives other than those analyzed in the Environmental Impact Statement (EIS) or EA; and/or 4) cause changes or revisions in one or more of the alternatives. No response is necessary for non-substantive comments (BLM, 2008). All comments were reviewed, considered, and then categorized into topics when feasible. Distinct topics and comments are summarized in Table 1.

Comment letters were received from eight (8) State agencies and non-governmental organizations by email, fax, through the ePlanning webpage, and mail. Minor non-substantive changes were made to the EA as a result of the individual letters (noted in the response table below) mainly for clarification purposes. None of the comments received warranted changes to the analysis.

Form Letters

There were no form letters received on this project proposal.

Agency Comments

Comment letters were received from the State Land Use Planning Agency, the Nevada Division of Environmental Protection, Bureau of Water pollution Control, the State Historic Preservation Office and the Nevada Department of Wildlife. Minor changes and additions were made to the EA for clarification purposes as a result of these comments (noted in the response table below).

Organizations' Comments

Comment letters were received from the Defenders of Wildlife, Basin and Range Watch, The Wilderness Society and Invenergy Solar Development LLC. Minor changes and additions were made to the EA for clarification purposes as a result of these comments (noted in the response table below).

Individual Comments

No comments from individuals were received on this project proposal.

Table E-1: Response to Comments Received on the *Luning Solar Energy Project* Environmental Assessment

#	Commenter	Comment	BLM Response
1	Defenders of Wildlife	<p>Recommendations: The BLM must follow the process for variance applications outlined in the Solar PEIS for the LSEP. The BLM should continue to provide the public with information and materials developed throughout the variance process. This information will help demonstrate proper implementation of the Solar Energy Program.</p>	<p>Refer to Chapter 1, Section 1.5.3 Variance Review of the Environmental Assessment (EA) which outlines the steps in the variance process followed for the Luning Solar Energy Project.</p>
2	Defenders of Wildlife	<p>Recommendations: The BLM should provide rationale for any decision to require off-site compensatory mitigation by defining the relationship between the proposed mitigation actions and the LSEP’s impacts on the resource. We ask the BLM to clearly demonstrate that the environmental impacts to resources other than invasive weeds can be effectively mitigated through minimization efforts if no compensatory mitigation is proposed for these resources.</p>	<p>Based on the impact analysis of the proposed project, new noxious and invasive weed infestations were found to be an issue that would affect multiple resources and provide the most challenge to reclamation of the site. The off-site mitigation is proposed to further reduce the spread and impact of weeds in the region and reduce impacts to multiple resources in this area. This is consistent with guidance provided through the Department of the Interior (DOI) Secretarial Order 3330, <i>Improving Mitigation Policies and Practices at the Department of the Interior, October 2013</i> and <i>A Strategy for Improving the Mitigation Policies and Practices of the Department of the Interior; A Report to the Secretary of the Interior, April 2014</i>.</p> <p>Refer also to the Applicant Committed Measures identified in Chapter 2, the analysis and mitigation identified in Chapter 3 of the EA.</p>

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3	Defenders of Wildlife	<p>Recommendations: BLM should provide data supporting the success rate of cacti transplantations in this area as plains prickly pear cacti are a protected species in Nevada. In addition, sufficient explanation as to why a one year maintenance period is suggested in the mitigation measures is required.</p>	<p>Both the 80% success rate and the one year of maintenance were chosen to insure consistency with the standards used by the BLM Southern Nevada District for similar projects.</p> <p>The Southern Nevada District generally meets the 80% success criteria when transplanting cacti in the Mojave Desert. The climatic conditions in the Great Basin Desert, in particular the LSEP boundary, are more favorable (e.g. cooler temperatures and increased precipitation) for transplanting cacti than the Mojave Desert, so the goal of 80% success for the LSEP should be met.</p> <p>The one year of maintenance (e.g. watering) for each transplanted cactus increases the likelihood of survival for each individual, especially during times of drought. The year of maintenance should result in the overall 80% success rate for all transplanted cacti.</p>
4	Defenders of Wildlife	<p>Recommendations: BLM should address the designation of the LSEP site as a desert mountain goat area in the EA.</p>	<p>The desert mountain goat area is an error in the Carson City Consolidated Resource Management Plan (Carson City CRMP), as no such animal exists in the location. No data could be found in previous land use planning documents to support the inclusion in the Carson City CRMP. This error is being addressed in the current RMP revision.</p>

#	Commenter	Comment	BLM Response
5	The Wilderness Society	<p>BLM did a very good job with the variance application review for LSEP, which we appreciate. We recommend that BLM continue to use a thorough approach to the variance application review for future variance applications. For the required pre-NEPA public meeting, we recommend that for future variance applications BLM should continue to look for ways to improve public outreach in advance of the meeting, such as sending postcards to interested stakeholders; posting information about the meeting on a BLM project website; and sending emails to stakeholders who have engaged in other BLM planning efforts and permitting for energy development in the region.</p>	<p>Comment Noted. BLM will continue to improve public outreach efforts for other planning efforts and energy development projects in the Carson City District.</p>
6	Invenergy Solar Development LLC and The Wilderness Society	<p>We believe that the off-site mitigation can be successfully accomplished most effectively by Invenergy Solar funding restoration projects in the nearby Gabbs Valley Range Wilderness Study Area or other nearby protected areas on BLM lands.</p> <p>Mitigation funds should be spent on restoration projects such as:</p> <ul style="list-style-type: none"> • restoring and potentially limiting access to unauthorized routes that are damaging pronghorn habitat and vegetation in the Intermountain Cold Desert Shrub Community; • restoring and protecting natural springs that are important for pronghorn; and • addressing noxious and invasive weed species that are negatively impacting the Intermountain Cold Desert Shrub Community and pronghorn habitat, such as by planting native plant species. 	<p>Use of off-site mitigation funds would be determined through a cooperative effort that would be finalized before a Notice to Proceed is issued.</p>

#	Commenter	Comment	BLM Response
7	Invenergy Solar Development LLC and The Wilderness Society	<p>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 contribution would cover the funding of specific off-site mitigation projects and any costs for ongoing monitoring for effectiveness of the mitigation actions. Invenergy Solar and TWS request that this applicant commitment be documented in the FONSI, and included in the Decision Record.</p>	Added to Decision Record and FONSI.
8	Invenergy Solar Development LLC and The Wilderness Society	<p>Invenergy and TWS propose that the BLM include the following in the Decision Record:</p> <ul style="list-style-type: none"> • 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 <p style="padding-left: 40px;">prior to BLM issuing a Notice to Proceed (NTP) for LSEP; and</p> <ul style="list-style-type: none"> • Upon start of construction of the LSEP, 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 and related monitoring obligations. 	These have been added to Decision Record and FONSI.

#	Commenter	Comment	BLM Response
9	Basin and Range Watch	<p>Environmental Assessment (EA) Inadequate: The EA fails to fully analyze the full scope of environmental consequences. The project will have impacts on air quality, visual resources and wildlife – both terrestrial and avian. The range of alternatives has also not been fully analyzed. The project is nearly 600 acres and would cumulatively impact wildlife, air quality, noise and visual resources. This justifies an Environmental Impact Statement for the project.</p>	<p>Refer to Chapter 3 for the environmental analysis (including analysis of cumulative impacts) of air quality, visual resources and wildlife – both terrestrial and avian resources.</p> <p>No impacts were determined to be significant thus requiring an EIS – refer to the rationale in the FONSI.</p> <p>Regarding the Range of Alternatives - Internal scoping and completion of the variance area review process did not identify unresolved conflicts that could occur with implementation of the Proposed Action with respect to alternative uses of available resources, therefore no additional alternatives were considered for analysis in this document. Also refer to response to comment #14 below.</p>
10	Basin and Range Watch	<p>The Purpose and Need Statement should incorporate more conservation based values. The statement should incorporate a Need to select a more environmentally friendly alternative. The need should also recognize a “Need” to conserve wildlife, air quality and visual resources.</p>	<p>As described in the EA, Secretarial Order 3285A1 (March 11, 2009) establishes the development of environmentally responsible renewable energy as a priority for the Department of the Interior and shows that conservation is a central element of responsible renewable energy. Through the analysis and completion of the variance area review, no unresolved conflicts that could occur with implementation of the Proposed Action with respect to alternative uses of available resources were identified.</p>

#	Commenter	Comment	BLM Response
11	Basin and Range Watch	The Statement also cites the Interior Secretary’s goal of approving 10,000 MW of renewable energy (non-hydro) on public lands from the Energy Policy Act of 2005. The 10,000 MW goal has already been met. Several wind and solar projects have already been approved on public lands on the land and off of the coast. This goal is outdated and inconsistent with the EA.	Section 211 of the Energy Policy Act of 2005 states “...seek to have approved non-hydropower renewable energy projects located on public lands with a generation capacity of <u>at least 10,000 megawatts of electricity</u> (emphasis added).
12	Basin and Range Watch	The Solar Energy Zones are not perfect by far, but the policy of the BLM is to fill up the zones before other BLM lands are sacrificed for energy use. As it stands now, the only solar energy zone in Nevada that has development is Dry Lake South. An off-site alternative should be considered and the variance process should at least look at the solar zones as an alternative.	Refer to Appendix A of the EA. Solar Energy Zones (SEZs) were considered during the process for an alternative site, but was found not to meet applicants’ needs. The Millers SEZ is the closest to the proposed project location, approximately 45 miles to the southeast, near Tonopah, Nevada. Invenergy Solar selected the proposed location for the LSEP largely based on the minimal resource conflicts identified in the 2009 EA.
13	Basin and Range Watch	The EA fails to analyze [sic] the high CO ₂ emissions that are caused by producing concrete. Because the EA talks in depth about climate change, CO ₂ emissions from producing concrete should be analyzed in the EA.	In the analysis of climate change, with respect to CO ₂ emissions, the Best Available Science was used to conclude that CO ₂ contributions from construction through reclamation of this project would be minimal.
14	Basin and Range Watch	<p>We would like to request that the BLM consider the following alternatives for the Luning Solar Power Project:</p> <ul style="list-style-type: none"> • Brownfields and Degraded Lands Alternative • Distributed Generation Alternative • Reduced Acreage Alternative • Different Photovoltaic Technology/ Low Noise Alternative 	<p>Internal scoping and completion of the variance area review process did not identify any unresolved conflicts that could occur with implementation of Proposed Action with respect to alternative uses of available resources.</p> <p>No issues were identified with the technology proposed necessitating the need to look at other technologies.</p>

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			<p>The analysis of the impacts in the EA shows that this area would have minimal impacts on sensitive resources.</p> <p>Therefore no additional alternatives were considered for analysis in this document.</p>
15	Basin and Range Watch	The EA fails to provide KOP simulations from the higher elevations of the Gabbs Valley Range and the Pilot Range. The PV panels will create a large visual blotch from the air.	Agency policy and guidance was followed during baseline data collection and analysis of the proposed project to select the appropriate Key Observation Points (KOPs).
16	Basin and Range Watch	The EA should also analyze the visual impacts on night security lighting.	Refer to Applicant Committed Measures in Chapter 2 and analysis of Visual Resources, which includes lighting and proposed mitigation regarding lighting in Chapter 3 of the EA.
17	Basin and Range Watch	The BLM declares the site to be Class IV which is the weakest classification possible. The Great Basin is often called “the Sagebrush Sea” and is appreciated by a large segment of the public.	Noted. The proposed Visual Resources Management (VRM) class is consistent with the recent Visual Resources Inventory (VRI) and site-specific evaluation of the area. There is no sagebrush present.
18	Basin and Range Watch	We would also like to request that BLM re-evaluate the entire site for VRM III, VRM II and even VRM I standards. Because the large project size, the BLM’s VRM Class ratings are not good enough to define the whole area visually. The project will impact areas of different designated BLM VRM classes.	Refer to the Visual Contrast Rating Forms in Appendix D of the EA. The project site is located on an alluvial fan between two narrow ranges. There is no variation in topographic features or landscape characteristics that would justify multiple VRM class ratings. The VRI designation is Class IV (see Section 3.11 of the EA and Map C-6 of Appendix C).

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19	Basin and Range Watch	Noise from construction was not fully analyzed in the EA. Noise can impede wildlife linkage, and potentially can frighten bighorn sheep. Noise can also take away from the aesthetics of the area.	<p>Highway 361 bisects the project area and produces noise from intermittent vehicular traffic in this area currently. Additional noise from the project (should the project be approved), during construction would be short-term and temporary in nature consisting of vehicular travel and equipment operation. Once the solar facility is running (should the project be approved), almost no noise would be generated with the proposed technology.</p> <p>Refer to Section 2.1.2 regarding Construction and Chapter 3 (Sections 3.13 General Wildlife, 3.14, Migratory Birds, and 3.15 Special Status Species) as noise is analyzed as a potential impact to different wildlife species. The Bird and Bat Conservation Strategy (BBCS) that would be prepared for this project, if approved, would provide for continued monitoring and adaptive management as needed for avian species.</p>
20	Basin and Range Watch	Desert bighorn sheep occur in the Gabbs Valley Range. The destruction of potential bighorn sheep foraging and migration corridor habitat is not adequately addressed in the EA.	The Nevada Department of Wildlife (NDOW) does not classify the LSEP area as bighorn sheep foraging habitat and have not identified any migration corridors through the area. Baseline studies by SWCA consultants and site visits by BLM support these conclusions from NDOW. Refer to the analysis of Wildlife in Section 3.13 in Chapter 3 of the EA.
21	Basin and Range Watch	The BLM should conduct a full study of bird flight patterns before this project is approved. An EIS would allow more flexibility for such	Although BLM did not conduct any specific baseline studies to determine avian flight patterns over the LSEP area, BLM did

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		a study.	review the current best available data (e.g. known raptor fall migration routes) and had discussions with partners (e.g. Nevada Department of Wildlife) to best understand if major migratory flyways occurred over the LSEP area. The BBCS that would be prepared for this project, if approved, would provide for continued monitoring and adaptive management as needed. Appropriate mitigation measures would be applied if any migratory flyways are found over the LSEP area.
22	Basin and Range Watch	We would like to request that the agencies recommend or even require avian monitoring on this project and mitigation. Single axis units can be potentially designed to be turned upside down which could be helpful in the migration times.	A BBCS would be prepared for this project, if approved, which would outline mitigation and monitoring requirements of the project (also refer to response to Comment #21).
23	Nevada Division of State Lands	As part of the Luning Solar Energy Project, please consider the cumulative visual impacts from development activities (temporary and permanent).	Refer to Chapter 3 Section 3.11 of the EA for the Visual Resources analysis, including cumulative impacts.
24	Nevada Division of State Lands	<i>The Lighting Management Plan and discussion on Page 50 is excellent.</i>	Comment noted.
25	Nevada Division of State Lands	The DEA adequately addresses the following proposed mitigation measures and the verbiage in the document is well written and correct. (mitigation in reference to dark sky lighting practices and visual resources).	Comment noted.
26	Nevada Division of Environmental Protection, Bureau of Water Pollution Control	The project may be subject to BWPC permitting. Permits are required for discharges to surface waters and groundwater's of the State (Nevada Administrative Code NAC 445A.228).... Please note that discharge permits must be issued	Comment noted, the proponent would be notified and they would be required to obtain all required permits before receiving a notice to proceed (NTP) for the project, if approved.

#	Commenter	Comment	BLM Response
		from this Division before construction of any treatment works (Nevada Revised Statute 445A.585)...	
27	Nevada State Historic Preservation Office	Of greatest interest to our office is the discussion in Section 3.2.1 (Additional Rationale) for cultural resources that notes that the entire 624-acre project area was subject to a Class III cultural resources inventory. The inventory, not cited in the EA's bibliography, resulted in 19 isolated finds and 11 archaeological sites.	The report information has been added to the Bibliography and referenced in the text in this section of the EA.
28	Nevada State Historic Preservation Office	Additional Class III survey is alluded to (but not cited) on p. 23. The discussion makes sense, with the possible exception of the statement that "Therefore this resource will not be carried forward for further analysis in this document" (p. 23). It is not clear to what "this resource" refers.	This has been clarified to read "Therefore Cultural Resources will not be carried forward...."
29	Nevada State Historic Preservation Office	Without reference to specific report titles, it is not possible to verify whether below threshold reports for the uncited inventories were received in our office and/or will be integrated into the Nevada Cultural Resources Information System (NVCRIS).	The following report information has been added to the EA: <i>BLM. 2008b. A Class III Cultural Resources Inventory for the Luning Solar Energy Project, Mineral County, Nevada. Prepared by Kautz Environmental Consultants, Inc. BLM Report No. CRR 3-2460.</i>
30	Nevada State Historic Preservation Office	Section 1.5 (Relationships to Statutes, Regulations, Other Plans and Environmental Analysis Documents) makes reference to the National Historic Preservation Act as 16 U.S.C. 470. The authors should note that the NHPA has a new home in the United States Code as of 1/6/15.	This has been revised to include the correct reference.

#	Commenter	Comment	BLM Response
		The comparable reference for what was formerly known as 16 U.S.C § 470 et seq. is now known as 54 U.S.C. §300101 et seq.	