

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

**Finding of No Significant Impact
Playa Solar Hwy 93 Tortoise Fence**

PREPARING OFFICE

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Chapter 1. Finding of No Significant Impact

1.1. Introduction

1.1.1. Proposed Action Title/Type

U.S. Hwy 93 Tortoise Fencing at Dry Lake SEZ

1.1.2. Project Proponent

Playa Solar LLC

1.1.3. Location of the Proposed Action

Approximately 20 miles north of Las Vegas on the east side of Hwy 93. Legal Description: M.D.M., Nevada T.17S., R.63E., Sec.33, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.

1.1.4. Overview of the Proposed Action

The Las Vegas Field Office of the U. S. Bureau of Land Management (BLM) has prepared this environmental assessment (EA) to disclose and analyze the environmental consequences of installation of approximately 0.75 mile of desert tortoise fence in the Nevada Department of Transportation (NDOT) U.S. Highway 93 right-of-way (ROW) contiguous to the Dry Lake Solar Energy Zone (SEZ) located in Clark County, Nevada (the Proposed Action), as proposed by Playa Solar, LLC (Applicant). This EA will assist the BLM in project planning and ensure compliance with the National Environmental Policy Act (NEPA) of 1969 and the Federal Land Policy and Management Act (FLPMA) of 1976.

The Applicant proposes to construct approximately 0.75 mile of permanent desert tortoise fence on BLM-administered land within the NDOT ROW along U.S. Highway 93 contiguous to the BLM's Dry Lake SEZ. The purpose of the fence is to create a westerly border to a translocation area for desert tortoise that will be moved from the Dry Lake SEZ which is located near Apex, Nevada, approximately 20 miles north of Las Vegas (see Figure 1). The fence will reduce exposure to harm by preventing relocated desert tortoise from moving onto Highway 93. A long term 25-foot wide ROW is requested for placement of the fence. The fence will be centered within the ROW, allowing for approximately 10-feet on either side for construction and maintenance activities. This work is associated with the desert tortoise translocation necessary for the development of three solar energy projects in the Dry Lake SEZ. Identification of the Dry Lake SEZ was analyzed in the BLM's Solar Programmatic Environmental Impact Statement (BLM 2012). The three projects proposed in the Dry Lake SEZ also went through individual NEPA analysis. As appropriate, information from these NEPA documents is incorporated by reference in this EA (BLM 2014).

1.2. Consistency with Land Use Plans, Laws, Regulations, and Policies

The Proposed Action is located on federal lands managed by the BLM's Southern Nevada District Office under the October 1998 Las Vegas Resource Management Plan (RMP)/Environmental Impact Statement (EIS) and ROD, as amended (BLM 1998). The principles of multiple-use management for the BLM are established through FLPMA. The current BLM Las Vegas RMP

is consistent with FLPMA and guides the decisions for the BLM. The Proposed Action is in conformance with the management objectives and direction of the 1998 BLM Las Vegas RMP/EIS as amended (BLM 1998).

This EA complies with the Council on Environmental Quality regulations for implementation of NEPA (40 CFR 1500–1508), the Department of the Interior’s Implementation of NEPA Regulations at 43 CFR 46, and BLM’s NEPA Handbook (H-1790-1) (BLM 2008). In addition, the Proposed Action would be consistent with other officially approved federal, state, and local plans, policies, and programs and with applicable federal regulations, policies and laws.

1.3. Selected Alternative

First Solar Development, LLC dba Playa Solar, LLC is proposing to install an approximately 0.75 mile desert tortoise fencing along US Hwy 93 contiguous to the Dry Lake Solar Energy Zone. The purpose of the fence is to create a westerly border to a translocation area for desert tortoise that will be moved from the Dry Lake SEZ. The tortoise fencing will extend 12 inches below the ground surface to prevent the tortoise from burrowing under the fence and will be constructed using standard galvanized tortoise fencing material. The requested ROW is 25 feet wide by 0.75 miles approximately 2.27 acres.

Construction would generally follow the sequence of the proposed Playa Solar Project (one of the projects within the Dry Lake SEZ) in terms of staking/flagging the construction limits and boundaries, clearing, trenching, fence installation, demobilization and cleanup. Design factors, construction methods, and rehabilitation processes are outlined in the Plan of Development submitted to the BLM. All on-site activities will be monitored by qualified biologists. Construction of the Proposed Action is expected to take 2 weeks or less to complete. Depending on ROW authorization and related permit approvals, construction is anticipated to start in Fall 2015.

Prior to construction commencement, a licensed professional land surveyor would conduct a land survey of the area to stake/flag the ROW boundaries and establish the fence location. There would be minimal permanent disturbance to vegetation from construction of the fence. Site preparation would include some vegetation clearing and trimming along the proposed 25-foot wide fence ROW, but most vegetation removal would occur within the narrow (approximately 2-foot wide) trench location through the center of the ROW. The trench is required to extend the fence 12-inches below the ground surface to prevent desert tortoise from burrowing under the fence. The construction contractor would be responsible for identifying and securing the rights to a permitted water source(s) for dust control during construction. It is anticipated that less than one acre-foot of water will be used for dust control during fence installation and would be brought in by truck from an offsite location.

1.4. Public Involvement

1.4.1. Summary of Public Participation

1.5. Finding of No Significant Impact

The Las Vegas Field Office interdisciplinary review and analysis of EA# DOI-BLM-NV-S010-2015-0079 determined that the proposed action would not trigger significant impacts on the environment based on criteria established by regulations, policy and analysis.

Based on the findings discussed herein, I conclude that the proposed action is not a major Federal action and will result in no significant impacts to the environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 and do not exceed those effects described in applicable land use plans. Therefore, preparation of an environmental impact statement (EIS) to further analyze possible impacts is not required pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969.

This determination is based on the rationale that the significance criteria, as defined by the Council on Environmental Quality (CEQ) (40 CFR 1508.27) have not been met. “Significantly” as used in NEPA requires considerations of both context and intensity.

In making this Finding of No Significant Impact (FONSI), the following criteria have been considered, in accordance with the Council on Environmental Quality (CEQ), 40 C.F.R. 1508.27.

Chapter 2. Context and Intensity

2.1. Context

This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short and long term effects are relevant.

Environmental impacts associated with the proposed action and alternatives have been assessed by an interdisciplinary team and described in Environmental Assessment (EA) # DOI-BLM-NV-S010-2015-0079. The context of the EA analysis was determined to be at a local and regional scale in Clark County, Nevada. The effects of the action are not applicable on a national scale since no nationally significant values were involved.

2.2. Intensity

This refers to the severity of impact. The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and supplemental Instruction Memorandum, Acts, regulations and Executive Orders. The following have been considered in evaluating intensity for this proposal:

2.2.1. Effects

Impacts can be both beneficial and adverse and a significant effect may exist regardless of the perceived balance of effects.

2.2.1.1. Beneficial Effects

The proposed fence will be a continuation of an existing desert tortoise exclusion fence and will be constructed primarily in an area already disturbed by an existing access road/easement where native vegetation has reestablished. Impacts to desert tortoise habitat will be minimized by installing the fence along the previously disturbed access road and using the existing disturbed areas as access routes for construction vehicles and equipment.

2.2.1.2. Adverse Effects

There are no adverse effects to this project that cannot be mitigated for or avoided during the short construction period.

2.2.2. Public Health and Safety

The degree to which the selected alternative will affect public health or safety.

Public health and safety would not be a concern during construction of the tortoise fence or as a result of its existence. Construction will occur along side a roadway, on already disturbed ground. Traffic along the roadway will not be impacted by this action.

2.2.3. Geographic Area

Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.

Suitable habitat for the desert tortoise does occur within the Proposed Action area. On February 21, 2015 ESA biologist Matthew South conducted a protocol presence/absence survey for desert tortoise along the proposed fence line and within a 30 meter buffer according the most recent guidelines (USFWS 2010). No desert tortoises or sign of tortoises (burrows, scat, carcasses, or tracks) were observed within the survey area (ESA 2015). During surveys conducted in September and October 2014, two live desert tortoises were observed approximately 500 meters east of the proposed fence and eight desert tortoise burrows were observed approximately 100 meters east of the proposed fence line (Ironwood 2014).

No other resources were found to be in the immediate vicinity nor will be impacted by this action (EA chapter 3).

2.2.4. Controversy

The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The proposed action will benefit the desert tortoise and not impact other resources, therefore is not likely to be highly controversial.

2.2.5. Uncertainty or Risks

The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

There is unlikely to be any effects on the human environment which would be highly uncertain or involve unique or unknown risks

2.2.6. Precedence

The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

This action will not create a precedent for future actions as it is specific to the protection of the desert tortoise within the Dry Lake Solar Energy Zone.

2.2.7. Cumulative Impacts

Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership.

A number of past, present and reasonably foreseeable future actions are or will occur in the vicinity of the Proposed Action, including utility-scale solar projects in the Dry Lake SEZ, which

is contiguous to the Proposed Action. As appropriate, this EA relies on the cumulative scenario information contained in the BLM’s Solar Programmatic Environmental Impact Statement (BLM 2012) and the individual NEPA documents prepared for the three solar projects proposed in the Dry Lake SEZ (BLM 2014).

2.2.8. National Register of Historic Places

The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

A cultural survey performed in 2013 by Nevada Department of Transportation under BLM permit #39794 covered the APE of the tortoise fencing project. No historic properties were encountered. No further survey is needed per the 2014 BLM Nevada Protocol Agreement 1.I.A.3.

2.2.9. Endangered or Threatened Species

The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or 2) a species on BLM’s sensitive species list.

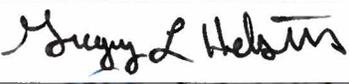
The purpose of the Proposed Action is the installation of tortoise exclusionary fencing creating a barrier to Highway 93 on the Western edge of the translocation area for tortoises moved from the Dry Lake SEZ in order to protect them from injury on U.S. Highway 93. Overall, this action will be beneficial to the desert tortoise.

2.2.10. Federal, State, Local, or Tribal Law, Regulation or Policy

Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements.

The proposed action does not threaten a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements (EA Chapter 1).

2.3. Review and Approval

Reviewed by: Greg Helseth, Renewable Energy Coordination Office, Southern Nevada District		8/19/2015
Reviewed by: Phil Rhinehart, Acting Supervisory Realty Specialist		8/19/15
Approved by: Vanessa L. Hice, Assistant Field Manager Division of Lands		8/20/15