

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

**Finding of No Significant Impact - Decision Record
Environmental Assessment
DOI-BLM-EA-06000-15-08**

December, 2014

Desert Sunlight Solar Farm Water Variance Request

Location: Six miles north of Desert Center, Riverside County, California

Applicant/Address: Desert Sunlight 250, LLC and Desert Sunlight 300, LLC
44810 Kaiser Road, P.O. Box 559, Desert Center, CA 92239

Palm Springs South Coast Field Office
1201 Bird Center Drive
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760-833-7100
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FINDING OF NO SIGNIFICANT IMPACT
Environmental Assessment
DOI-BLM-EA-06000-15-08
Desert Sunlight Solar Farm Water Variance Request

The Palm Springs South Coast Field Office of the U.S. Bureau of Land Management (BLM) prepared an Environmental Assessment (EA) dated December 2014 that analyzed the effects of increasing the existing groundwater authorization for the Desert Sunlight Solar Farm Project (Project) (CACA 48649) by a total of 50 acre-feet (AF) (Proposed Action) as requested by Desert Sunlight 250, LLC and Desert Sunlight 300, LLC (collectively, Proponent)¹ as described in detail in Chapter 2 of the EA. The EA tiers from the BLM's April 15, 2011 Desert Sunlight Solar Farm Project California Desert Conservation Area (CDCA) Plan Amendment and Final Environmental Impact Statement (BLM, 2011a) (the "2011 FEIS") (76 FR 21402) and authorized in the August 2011 Record of Decision (ROD) for the Project and Amendment to the CDCA Plan (BLM, 2011b) (the "2011 ROD").

I have considered the Council on Environmental Quality's criteria for significance (40 CFR 1508.27; see also, section 7.3 of the BLM National Environmental Policy Act Handbook [Manual H-1790-1, p. 70]), with regard to the "context" and "intensity" of impacts. My finding is based on the consideration of the direct, indirect, and cumulative impacts of the Proposed Action, and the context and intensity of those impacts as described below.

Project Description

The BLM approved the Project in August 2011 as a 550-megawatt photovoltaic solar energy facility (BLM, 2011b). The BLM authorized the use of up to 1,400 AF of groundwater during the 26-month construction period, and 6 AF (total) at 0.2 acre-feet per year (AFY) (annual average) for the 30-year operation and maintenance period (BLM, 2011a). The BLM authorized use of up to an additional 100 AF of groundwater on April 4, 2014 for a total solar plant site construction allowance of up to 1,500 AF. Construction began on August 15, 2011 and is anticipated to be completed by the end of 2014. Groundwater pumped from two onsite production wells (Well 1 and Well 2) has supplied the Project's water needs during construction. Only Well 1 will be used to meet Project needs during the 30-year operation and maintenance period. Well 1 was constructed in October 2011 and has supplied water for construction since October 27, 2011. It has been operated at pumping rates generally ranging from approximately 400 to 600 gallons per minute (gpm), Monday through Friday, with hours of operation varying depending on construction needs. Well 2 was constructed in March 2013 and used for construction purposes between April 1, 2013 and July 20, 2014. Well 2 is being destroyed.

The Proposed Action is being evaluated as a Level 2 variance. Level 2 variance requests generally involve project changes that would exceed the scope of the prior approval but are within the area previously surveyed for cultural resources, sensitive species, and biological resources, such as the use of extra workspace outside the previously approved work area but within previously surveyed areas. Level 2

¹ Desert Sunlight 250, LLC and Desert Sunlight 300, LLC collectively hold the right-of-way grant for the Project. The Construction contractor for the Project, First Solar Electric (California), Inc. (First Solar), has filed the variance request and other materials for the Proposed Action on behalf of these entities.

variances do not require an amendment to the right-of-way (ROW) grant. If the Level 2 variance request is approved, the Construction Manager (CM) will sign the variance request and e-mail the approved form (scanned copy) to the Proponent's representatives, the BLM, and others as specified in the 2011 ROD, and the variance could be implemented in the field as soon as the approved variance is received. The approved Variance Request Form would be posted on the Project website.

The BLM's underlying need is to respond to the Proponent's Project-specific, site-specific request for authorization to pump an additional 50 AF of groundwater over the life of the Project in a manner consistent with the terms and conditions of ROW grant CACA 48649 and other existing approvals. The Proponent's purpose in seeking the 50 AF increase in groundwater authorization is twofold: (1) to provide a sufficient buffer in the event of unanticipated construction water needs; and (2) to support site remediation required to respond to damage to onsite water retention and other facilities caused by future storm events.

Context

Under NEPA's implementing regulations, "context" means that consideration of "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." 40 CFR 1508.27(a). The Proposed Action is located in the westernmost portion of the Chuckwalla Valley, Riverside County, California, within the Project boundaries approved in the 2011 ROD. The EA analyzes direct, indirect, and cumulative effects of the proposed withdrawal of a 50 AF increase in the authorized volume of groundwater from the Chuckwalla Valley Groundwater Basin.

Intensity

The term "intensity" refers to the severity of a proposed action's impact on the human environment (40 CFR 1508.27(b)). In determining an impact's intensity, NEPA's implementing regulations direct federal agencies to consider the following ten factors, each of which is discussed below in relation to the Proposed Action (Id.).

1. Impacts that may be both beneficial and adverse.

The Proposed Action could result in beneficial and adverse impacts that are within the type and intensity of impacts analyzed in the 2011 ROD:

- If a significant rain event occurs during the remainder of construction, operation, maintenance, or decommissioning of the Project that results in excessive surface flows, and thereby necessitates remediation efforts to restore water retention basins on the Project site, the amount of water anticipated to be necessary for such work would be available.
- The Proposed Action could contribute to a cumulative depletion of groundwater supplies but not to a degree that would be a net deficit in aquifer volume, lower of the local groundwater table level to a degree that adversely impacts area wells (i.e., higher energy costs for well owners or the need to deepen wells or to modify or replace well pumps and equipment, which could incur substantial costs), or subsidence.

The potential for adverse impacts would be reduced by adherence to the mitigation measures adopted in the 2011 ROD including Mitigation Measure WAT-2, which requires water metering, monitoring, and documentation of Project water use for the life of the Project.

2. ***The degree to which the proposed action affects public health or safety.***

There would be no new public health and safety effects beyond those effects identified and analyzed in the 2011 ROD. The requested additional groundwater would be pumped from an existing well. No new construction or modification of existing infrastructure that could introduce contaminants to the well would be required. Further, the additional water would not be used for domestic purposes.

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

There are no unique characteristics of the geographic area that would be affected by the Proposed Action, which would pump water from an existing well using existing infrastructure. No new construction or modification of existing infrastructure that could affect historic or cultural resources. There are no park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas in the Project area.

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

The Project site is located within the boundaries of an approved project and consistent with the types of actions described in the 2011 ROD. The potential impacts of the additional groundwater withdrawal are within the scope and scale of controversy described and considered in the 2011 FEIS. Therefore, the Project is not likely to be highly controversial.

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

The effects of pumping 50 AF of additional groundwater as described in the EA are well known by the BLM because it has approved 29 utility-scale solar energy projects on public lands since 2010, and because the Proposed Action does not present any new or novel issues or effects in relation to previously approved actions. There would not be a high level of uncertainty of the possible effects, nor any new unique or unknown risks.

6. ***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.***

The Proposed Action does not set a precedent for future actions with significant effects and does not represent a decision in principle about a future consideration since the relevant action is limited to site-specific action within the boundaries of the approved Project.

7. ***Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.***

The analysis of potential cumulative effects of the Project's groundwater use were considered in the 2011 FEIS and re-evaluated in the EA to determine whether a 50 AF increase in groundwater pumping would cause a new or more significant cumulative effect. As analyzed and described in Section 3.4 of the EA, implementation of the Proposed Action would result in no new cumulatively significant impacts relative to those disclosed in the 2011 FEIS. Implementation of the mitigation measures identified in the 2011 ROD, including Mitigation Measure WAT-2, would further offset potential cumulative impacts.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or 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.*

The Proposed Action avoids direct and indirect effects to districts, sites, highways, structures, or objects listed in (or eligible for listing in) the National Register of Historic Places, and would not cause the loss or destruction of significant scientific, cultural, or historical resources. No new construction or modification of existing infrastructure would be required to implement the Proposed Action.

9. *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.*

The Proposed Action avoids direct and indirect effects to endangered or threatened species and to designated critical habitat. Because no new construction or modification of existing infrastructure would be required to implement the Proposed Action, no species or habitat would be affected by the Proposed Action.

10. *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

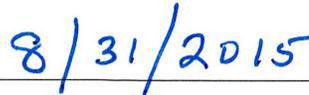
All potentially applicable environmental laws were considered to identify requirements and prevent possible violations. Approving the Proposed Action would not violate or threaten to violate any Federal, State, or local law or requirement for the protection of the environment.

FINDING OF NO NEW SIGNIFICANT IMPACT

Based on the analysis of potential environmental impacts contained in the attached environmental assessment, and considering the significance criteria in 40 CFR 1508.27, I have determined that granting the Desert Sunlight Solar Farm Water Variance Request will not have a significant effect on the human environment other than those already analyzed in the April 15, 2011 Desert Sunlight Solar Farm Project California Desert Conservation Area (CDCA) Plan Amendment and Final Environmental Impact Statement (76 FR 21402). An environmental impact statement is therefore not required.



Authorized Officer
John R. Kalish, Field Manager
Palm Springs South Coast Field Office



Date

DECISION RECORD
Environmental Assessment
NEPA Number DOI-BLM-EA-06000-15-08
Desert Sunlight Solar Farm Water Variance Request

It is my decision that, with incorporation of the mitigation measures described in the attached December 2014 Environmental Assessment (EA) analyzing the effects of increasing the existing groundwater authorization for the Desert Sunlight Solar Farm Project (Project) (CACA 48649) by a total of 50 acre-feet (AF) (Proposed Action), the Proposed Action will not result in any new significant effects to the quality of the human environment that were not fully analyzed in the BLM's April 15, 2011 Desert Sunlight Solar Farm Project California Desert Conservation Area (CDCA) Plan Amendment and Final Environmental Impact Statement (76 FR 21402) and that a project-specific environmental impact statement (EIS) is not required.

Authority: The authority for this decision is contained in Title V of the Federal Land Policy Management Act of 1976 (FLPMA).

Compliance and Monitoring: The BLM adopted a monitoring and enforcement program for the Project in its August 2011 Record of Decision for the Project and Amendment to the CDCA Plan (the "2011 ROD") (40 CFR 1505.2(c); BLM Handbook H-1790-1 Chapter 10, p. 105). The EA for the Proposed Action relies upon and tiers to that program, which will continue to be implemented for the duration of the Project to assure that the BLM's decisions in the 2011 ROD and this Decision Record are carried out in accordance with its approvals. No amendment of the program is required or would occur as a result of this decision to approve the Proposed Action.

Terms / Conditions / Stipulations: The BLM imposed specific terms, conditions, and stipulations as set forth in the 2011 ROD. The analysis in the EA relies upon and tiers to those provisions, and updates them to include the following revision to Mitigation Measure WAT-2, which reflects an increased maximum number of AF and that construction of the Red Bluff Substation and Project generation-tie line have been completed:

MM-WAT-2 ~~Construction~~ Water Use. The proposed Project's use of groundwater ~~during construction~~ shall not exceed a total of ~~1,400~~ 1,550 AF during the ~~26-month~~ construction period, 360 AF and 6 AF during the operation of period for the solar farm with an additional 50 AF to be used for either construction or operations for the solar farm as needed, 360 AF for the Red Bluff Substation, and 7 AF for the Gen Tie Line. Before groundwater can be used for construction, the Project owner shall install and maintain metering devices as part of the water supply and distribution system to document Project water use and to monitor and record in gallons per day the total volume of water supplied to the Project from this water source. The project owner shall certify the total water usage in each quarterly water report submitted to the BLM. The metering devices shall be operational for the life of the Project.

PLAN CONFORMANCE AND CONSISTENCY

The Proposed Action has been reviewed and, as explained in Section 1.5 of the attached EA, found to be in conformance with the California Desert Conservation Area Plan of 1980, as amended.

ALTERNATIVES CONSIDERED

The EA considered two alternatives: the No Action Alternative and the Proposed Action, which is the Preferred Alternative.

The No Action Alternative was not selected because it would not provide sufficient water to implement any civil or structural remediation efforts needed to respond to potential significant storm damage should such a response become necessary. Adverse impacts associated with storm water flows, sediment transport, localized flooding, a lower rate of infiltration and groundwater recharge due to a reduced retention and concentration of stormwater, damage to desert tortoise fencing caused by storm flows and concomitant impacts to individual desert tortoises (including injury or death) could result. In the attached EA, see Section 2.3 (describing the No Action Alternative), Section 3.3.2 (analyzing direct and indirect effects of the No Action Alternative), and Section 3.4.2 (analyzing cumulative effects of the No Action Alternative).

The BLM considered other potential alternatives, including trucking water in from a different, off-site source and the Project's implementation of conservation and demand management efforts, but eliminated them from further analysis using the screening criteria identified in BLM NEPA Handbook Section 6.6.3. See Section 2.4 of the attached EA, *Alternatives Considered but Eliminated from Further Analysis*.

RATIONALE FOR DECISION

The environmentally preferred alternative is determined by evaluation against the national environmental policy articulated in Section 101 of NEPA and implemented through regulations, policies, and guidelines issued by the Council on Environmental Quality at 40 CFR 1500.

Among other factors, the environmentally preferred alternative helps to:

- Provide a sufficient buffer in the event of unanticipated construction water needs; and
- Support site remediation required to respond to damage to onsite water retention and other facilities caused by future storm events.

The BLM encouraged and facilitated public involvement early in the NEPA process by conducting external scoping, providing public notification before preparing the EA, and holding a public meeting. See Appendix B of the attached EA, which summarizes the results of this public participation process. Two scoping letters were received, and one member of the public spoke at the public meeting. Input received from the public was used during the consideration of potential alternatives to the Proposed Action. See, for example, Sections 2.4.1 and 2.4.2 of the attached EA, which consider in response to public comments trucking water in from Lake Tamarisk or a different source as potential alternatives, and Section 2.4.3, which considers in response to a public comment whether the proponent could implement conservation and demand management measures that would obviate the need for the Proposed Action.

A third scoping letter came to light subsequent to the issuance of the EA. The BLM's consideration of this letter did not result in changes in the design, location, or timing of the Proposed Action in a way that would cause significant effects to the human environment outside of the range of effects analyzed in the EA. Similarly, the letter did not identify any new significant circumstances or information relevant to environmental concerns that bear on the Proposed Action and its effects. To the contrary, the letter identified no new or different effects

relative to the range of effects previously analyzed, and no new or different alternatives relative to the range of alternatives analyzed in the EA. The BLM's responses to the comments provided in the letter, as well as the letter itself, are provided as Appendix A.

PROTEST/APPEAL LANGUAGE

This decision shall take effect immediately upon the date it is signed by the Authorized Officer, and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay (43 CFR 2801.10(b)). Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the Authorized Officer at Palm Springs South Coast Field Office, 1201 Bird Center Drive, Palm Springs, CA 92262. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.



Authorized Officer
John R. Kalish, Field Manager
Palm Springs South Coast Field Office



Date

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APPENDIX A

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United States Department of the Interior



Bureau of Land Management
1201 Bird Center Drive
Palm Springs, CA 92262

Phone (760) 833-7100 | Fax (760) 833-7199
<http://www.blm.gov/ca/palmsprings/>

August 31, 2015

In reply refer to:
CACCA 048811

Kevin Emmerich and Laura Cunningham
Basin and Range Watch
P.O. Box 70
Beatty, NV 89003

Dear Mr. Emmerich and Ms. Cunningham:

Subsequent to the issuance of a December 2014 Environmental Assessment (EA), which evaluated the potential environmental consequences of increasing the existing groundwater authorization for the Desert Sunlight Solar Farm Project (the "Project") (CACCA 48649) by a total of 50 acre-feet (AF) (the "Proposed Action"), your September 9, 2014 scoping letter (enclosed) came to light and has been considered by the BLM. The BLM has determined that the input provided does not require a revision to or recirculation of the EA. Although not required under NEPA, the BLM has prepared the following responses to your September 9, 2014 letter as a courtesy.

The Scoping Process: The letter asks about the duration of the scoping period. A 30-day scoping period regarding the Proposed Action (including a noticed public meeting) began on August 25, 2014 and ended on September 24, 2014. See EA Section 4.2, *Summary of Public Participation*, and EA Appendix B, *Public Scoping Report*.

The Variance Process: The letter suggests that the Proposed Action is inconsistent with the BLM's prior authorization of the Project. To the contrary, as explained below, consideration of the Proposed Action as a Level 2 Variance is expressly consistent with the ROD (see Section 5 of the Environmental and Construction Compliance Monitoring Plan (ECCMP), which was provided as Appendix 5 of the ROD).

The BLM issued a ROD authorizing the Project in August 2011, including authorization to develop a 550-megawatt solar photovoltaic generating facility to be located in the westernmost portion of the Chuckwalla Valley, Riverside County, California. In approving the Project, the BLM authorized the use of up to 1,400 acre-feet (AF) of groundwater from the Chuckwalla Valley Groundwater Basin during the construction period and 6 AF (total) and 0.2 acre-feet per year (AFY) (annual average) over the 30-year operation and maintenance period. On April 4, 2014, the BLM authorized use of up to an additional 100 AF of groundwater during Project construction following the completion of review under NEPA. On August 1, 2014, First Solar (the "Proponent") submitted a new water variance request seeking BLM approval to increase the existing groundwater authorization by a total of 50 AF for general construction and maintenance purposes and to allow sufficient water to address the potential need to support civil and structural remediation efforts in response to rain events should it become necessary. Because the requested volume of water exceeded the amount authorized by the ROD, a variance from that authorization would be required before the additional allocation could be considered for approval. The variance process, including related supplemental environmental review, expressly recognizes that a proposal deviates from an existing approval and/or the assumptions relied upon in the underlying analysis.

As described in EA Section 1.2, *Background*, the Proposed Action was evaluated as a Level 2 variance. As described in Section 5 of the ECCMP (see Appendix 5 of the ROD), Level 2 variance requests generally involve project changes that would exceed the scope of the prior approval but are within the area previously surveyed

for cultural resources, sensitive species, and biological resources, such as the use of extra workspace outside the previously approved work area but within previously surveyed areas.

Nature of the Groundwater: The letter suggests, based on a report published by the USGS California Groundwater Ambient Monitoring and Assessment (GAMA) program, that no recharge occurs within the Chuckwalla Valley Groundwater Basin. The BLM is aware of the isotopic data published as part of the GAMA program and expressly considers it in EA Section 3.2, *Affected Environment*. Regardless of acknowledged disagreement among experts as to whether recharge is occurring in the basin, the groundwater model used to analyze potential impacts conservatively assumed that no recharge occurs.

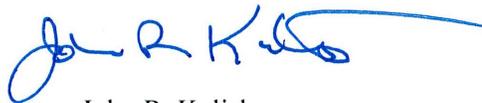
BLM's Purpose and Need: The letter requests that the BLM prioritize conservation and preservation over the proposed use of groundwater in its statement of purpose and need. As set forth in EA Section 1.3, *BLM's Purpose and Need for the Proposed Action*, "the BLM's underlying need is to respond to the Proponent's Project-specific, site-specific request..." In responding to that request, the BLM considered "approval of the proposed increase in the authorized amount of groundwater extraction in a manner that avoids or reduces potential impacts on groundwater resources and other resources and activities as identified in the CDCA Plan and 2011 FEIS, best meets the BLM's multiple use obligations, is consistent with the ROW authorization granted to the Proponent, and prevents unnecessary or undue degradation of the public lands." While recognizing the letter authors' preference for groundwater preservation, the BLM nonetheless is bound by its multiple use obligations and has striven to meet them in an environmentally responsible manner in the context of its evaluation of the Proposed Action.

Potential Alternatives: The letter requests that the alternatives analysis consider options whereby the Proponent would have to purchase the requested water and/or truck it in from a different source. The EA does so. EA Chapter 2, *Proposed Action and Alternatives*, describes scenarios pursuant to which the Proponent would truck water in from Lake Tamarisk and pay for and truck water that would be provided by Coachella Water District, City of Blythe, Palo Verde Irrigation District, and Metropolitan Water District. For the reasons described in EA Section 2.4, *Alternatives Considered but Eliminated from Further Analysis*, none of these potential alternatives satisfied the screening criteria identified in BLM NEPA Handbook Section 6.6.3, and so none were carried forward for more detailed review.

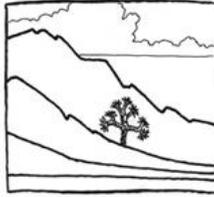
Future Water Needs: The letter requests that the Proponent prepare a report predicting the amount of water that would be needed for the life of the Project, and that such report be posted on the BLM's website. The Proponent's prediction of future water needs is reflected in its variance request, which is available for public inspection as part of the BLM's formal record for the Proposed Action. The preparation of a separate report would not further inform the BLM's consideration of potential effects of the Proposed Action. Accordingly, the BLM declines to require that one be prepared.

Adaptive Management: The BLM recognizes the letter authors' dissatisfaction with adaptive management as a mitigation concept. However, adaptive management is not at issue with respect to the Level 2 variance request considered as part of the Proposed Action. Adaptive management is a systematic approach for improving resource management by learning from management outcomes; it is structured, iterative process that is intended to reduce uncertainty over time based on information provided by ongoing system monitoring. The variance process, as described above, is not an example of adaptive management.

Sincerely,



John R. Kalish
Field Manager



Basin and Range Watch

September 9th, 2014

Frank McMenimen
Bureau of Land Management
1201 Bird Center Drive,
Palm Springs, CA 92262
CAPSSolarFirstSolarDesertSunlight@blm.gov

Greetings,

Please accept the following comments on the Notice of Intent to Prepare an Environmental Assessment for Solar Project Water Variance Request for the Desert Sunlight Solar Project.

Nextera would like to increase their water use for the Desert Sunlight Project by 50 acre feet.

Basin and Range Watch is a group of volunteers who live in the deserts of Nevada and California, working to stop the destruction of our desert homeland. Industrial renewable energy companies are seeking to develop millions of acres of unspoiled habitat in our region. Our goal is to identify the problems of energy sprawl and find solutions that will preserve our natural ecosystems and open spaces. We have been commenting on the Desert Sunlight Solar Project and its impacts from the beginning.

We would like to point out that BLM did not give a comment deadline for this scoping. Is it two weeks? Is it 30 days? Why no deadline?

The request to use 50 more acre feet of water is contradictory to the BLM's Record of Decision for the Desert Sunlight Solar Project which places a limit on how much water is permitted to be used for this project. On page 27 of the of the ROD, the limit of 1,400 acre feet in a 26 month period is clearly pointed out and can be referenced here:

http://www.blm.gov/pgdata/etc/medialib/blm/ca/pdf/palmsprings/desert_sunlight.Par.85099.File.dat/ROD%20Appendix%202_Adopted%20MMs.pdf

It is not much of a surprise that Nextera/First Solar wants more water. They have been less than accurate about their fugitive dust emission predictions on several of their projects. The question is, is the Bureau of Land Management capable of sticking with a decision that they make??

As BLM should be aware, the United States Geological Survey conducted a groundwater study for the Chuckwalla Valley region in 2012 including the area around Desert Center. The conclusion was that no tritium was detected in the water supply. Most of the rechargeable aquifers in the desert southwest are slightly contaminated with tritium due to past nuclear tests and it can be detected in modern groundwater tests. If an aquifer is tritium free, it indicates that no recharge has taken place in 50 years (prior to nuke tests). Since no tritium was detected in the aquifer First Solar/Nextera is exploiting, that indicates that the water in the area is NOT recharged and comes from a fossil aquifer. These are the most endangered aquifers in the southwest.

The USGS Groundwater Ambient Monitoring Analyzing can be referenced here:

<http://pubs.usgs.gov/ds/659/>

Isotope sampling has determined that regional groundwater recharge occurred 3,000 to 32,000 years ago.

For an Environmental Assessment, BLM can identify a Purpose and a Need for a project. In this case, we want the BLM to define a Purpose and Need that recognizes the scarcity of water in the region and a need to conserve a fossil water aquifer. The Need should place priority of groundwater preservation over the financial and construction needs of Nextera.

Since we have never seen BLM turn down a request like this from a solar developer, we would like to request that the following alternatives be considered:

1. Nextera should be required to purchase all additional water that they use. Perhaps BLM should charge Nextera \$5,000 to \$10,000 dollars for every additional acre foot of water that they use. The money could go into an environmental mitigation fund to further attempt to offset the impacts of their project.
2. Require Nextera/First Solar to truck in all of their water. They can afford it. First Solar has several projects on their pipeline. They have received almost 5 billion total dollars for their projects in the form of DOE loans and get a nice federal tax break for every project they build.

We would also like BLM to require Nextera to compile a prediction of all the water they will need to use throughout the life of the project. A report should be made available to the public and posted on the BLM website.

Any of these mitigation measures should be considered a penalty to the developers for underestimating their need for valuable resources.

This latest request is a classic example of how the entire concept of Adaptive Management mitigation is largely a failure. To simply “approve first, mitigate later” has bitten the agency in the backside more than once. Clearly we have seen fugitive dust issues, wildlife issues and a series of other unexpected impacts surge up from these projects shortly after approval. The cumulative scenario of Desert Harvest, Palen, Genesis, Desert Quartzite, Blythe, McCoy, Rice and a host of other projects have shown that the BLM is willing to roll the dice not only with our valuable resources, but the people who live in these regions. All one has to do is look at the news to realize that California is in a very severe drought. It seems amazing that BLM would even be considering such a request on a fossil water aquifer at this time.

Thanks,

Kevin Emmerich

Laura Cunningham

Basin and Range Watch

P.O. Box 70

Beatty, NV 89003