

RECORD OF DECISION

for the

Ivanpah Solar Electric Generating System Project

and

Associated Amendment to the California Desert Conservation Area Plan

Lead Agency:

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

*Environmental Impact Statement BLM/CA/ES-2010-010-1793 DOI FES 10-31
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*Ivanpah Solar Electric Generating System
Decision to Grant Right-of-Way and Amend California Desert Conservation Area Plan*

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Executive Summary

This document constitutes the Record of Decision (ROD) of the United States Department of the Interior (DOI) and Bureau of Land Management (BLM) for the Ivanpah Solar Electric Generating System (ISEGS) Project and Amendment to the California Desert Conservation Area (CDCA) Plan. This ROD approves the construction, operation and maintenance, and termination of the proposed ISEGS Project on public lands in San Bernardino County, California, as analyzed in the ISEGS Final Environmental Impact Statement (Final EIS), issued August 6, 2010 in the Federal Register’s Environmental Protection Agency Notice of Availability. This approval will take the form of a BLM Right-of-Way (ROW) grant under Title V of the Federal Land Policy and Management Act (FLPMA) and 43 CFR Part 2800 regulations.

There are two decisions covered in this ROD:

- 1) The first decision is to amend the CDCA Plan to include the ISEGS facility as an approved power generation location under the Energy Production and Utility Corridors Element of the CDCA Plan.

- 2) The second decision is to grant four ROW authorizations for the selected Mitigated Ivanpah 3 Alternative, and to close certain routes of travel within the project site. The four ROW authorizations are:

Solar Partners I, II, and VIII, LLC	CACA-49502	Construction Logistics Area
Solar Partners II, LLC	CACA-49504	Ivanpah 1 site
Solar Partners I, LLC	CACA-48668	Ivanpah 2 site
Solar Partners VIII, LLC	CACA-49503	Ivanpah 3 site

Amendment to the CDCA Plan is required to allow a solar energy generation project on this site because it was not already identified as a site for power generation in the current Plan. The proposed CDCA Plan Amendment was reviewed by the Governor’s Office of Planning and Research following the issuance of the Final EIS and was found to be consistent with State and local plans.

The decision to grant Solar Partners I, II, and VIII (herein after referred to collectively as Solar Partners) the above described ROW authorizations will allow construction of the ISEGS project. Solar Partners I, II, and VIII are identified as joint owners of the

Construction Logistics Area and that authorization is jointly held. Solar Partners, LLCs are limited liability corporations that are controlled by the same parent corporation, BrightSource Energy Partners. (Hereinafter, throughout this document all references to BrightSource Energy necessarily include the Solar Partners as the individual ROW holders). The four ROW grants will be issued for 30-year terms that are subject to renewal if the holder of the ROW is complying with the terms, conditions, and stipulations of the grant and applicable laws and regulations. BrightSource must pay fair market rental for the use and occupancy of public lands involved in the project. The grants will also be subject to the terms, conditions, and stipulations described in the Biological Opinion (BO, Appendix 2), Programmatic Agreement (PA, Appendix 3), and Compliance Monitoring Plan, Appendix 4.

The Department of Energy (DOE) was a cooperating agency during the NEPA process because the Secretary of Energy authorizes loan guarantees for a variety of types of projects. The two purposes of the loan guarantee program are to encourage commercial use in the United States of new or significantly improved energy-related technologies and to achieve substantial environmental benefits. The purpose and need for action by the DOE is to comply with its mandate under the Energy Policy Act by selecting eligible projects that meet the goals of that Act.

This ROD applies only to BLM-administered lands. The DOE is responsible for issuing its own decisions and applicable authorizations for the ISEGS Project.

Decision Rationale

These decisions fulfill legal requirements for managing public lands. Granting the ROW to BrightSource contributes to the public interest in developing renewable power to meet State and federal renewable energy goals. The stipulations in the grant ensure that authorization of the ISEGS Project will protect environmental resources and comply with environmental standards. These decisions reflect careful balancing of many competing public interests in managing public lands for public benefit. These decisions are based on comprehensive environmental analysis and full public involvement. The BLM engaged highly qualified technical experts to analyze the environmental effects of the ISEGS Project. During the scoping process and following the publication of the Draft EIS and Supplement EIS, members of the public have submitted comments that have enhanced the BLM's consideration of many environmental issues germane to the authorization of this project. The BLM, DOE, DOI, and other consulted agencies used their expertise and existing technology to address the important issues of environmental resource protection. The BLM and DOI have determined that the mitigation measures

contained in the Final EIS and the Biological Opinion (BO) avoid or minimize environmental harm to the maximum extent practicable.

1. Decisions and Authority

1.1 Background

This ROD for the ISEGS Project and Associated Amendment to the California Desert Conservation Area Plan (CDCA Plan) approves the construction, operation, maintenance, and termination (which includes decommissioning) of the proposed ISEGS Project on public lands in San Bernardino County, California, as analyzed in the ISEGS Project Final EIS and Proposed Land Use Plan Amendment and as noticed in the August 8, 2010, Federal Register. This approval will take the form of a Federal Land Policy and Management Act (FLPMA) ROW grant, issued in conformance with 43 USC Title V of FLPMA, and implementing regulations found at 43 CFR Part 2800. In order to approve the site location for the ISEGS Project, the BLM also approves a land use plan amendment to the CDCA Plan of 1980, as amended.

The ROW grants will allow BrightSource the right to use, occupy, and develop the described public lands to construct, operate, maintain, and terminate a 370 MW solar energy facility in the area that was identified and evaluated in the Final EIS. This decision is conditioned, however, on implementation of mitigation measures and monitoring programs as identified in the Final EIS, the BO issued by the United States Fish and Wildlife Service (USFWS), the PA issued by the State Historic Preservation Officer, and the issuance of all necessary local, state, and federal approvals, authorizations and permits. The Plan of Development indicates a Notice to Proceed will be first issued for construction of the common facility area and southern power unit. Construction activities in the middle and northern development units will not occur until spring of 2011 after completion of biological mitigation required in the decision.

This decision approves the ISEGS Agency Preferred Alternative as analyzed in the Final EIS, which is also referred to as the Selected Alternative in this ROD. The project site totals approximately 3,471.36 acres in the eastern part of San Bernardino County, approximately 40 miles southwest of Las Vegas, Nevada, and within four miles of the town of Primm, Nevada (see Figure 1, Appendix 5). The ISEGS Project is a development of three solar concentrating thermal power plants using fields of heliostats (elevated mirrors guided by a tracking system) to focus solar energy on boilers located on centralized power towers. The applicant proposes to develop the ISEGS project as three power plants in separate and sequential phases that are designed to generate a total of 370 MW of electricity. Ivanpah 1 will have an electrical generation capacity of 120 MW, and Ivanpah 2 and 3 will have a capacity of 125 MW each. The fourth ROW grant will include shared facilities consisting of the substation area, administration and

maintenance buildings, contractor yards, and nursery for succulents and rare plants, and will be developed during construction of the first power plant in the Construction Logistics area between Ivanpah 1 and 2. The ROW grant will also include a corridor that is 35 feet-wide and 3,911 feet long for construction of a natural gas pipeline, and authorization to use the existing Colosseum Road and Yates Well Road to access the facility (Figure 2, Appendix 5). The 3471.36 acres under the jurisdiction of the BLM is the area that will be subject to the BLM ROW grant and the amendment to the CDCA Plan.

The four ROW grants will be issued to BrightSource (via Solar Partners), each for a term of 30 years with a right of renewal so long as the lands are being used for the purposes specified in the grant. The company, may, on approval from the BLM, assign the ROW grant to another party in conformance with the Part 2800 ROW regulations. Construction of the project may be phased; however, the BLM typically requires the initiation of project construction within 18 months of the issuance of a ROW grant. In addition, initiation of construction will be conditioned on final BLM approval of the construction plans. This approval will take the form of an official Notice to Proceed (NTP) for each phase or partial phase of construction.

BrightSource cannot begin construction until compliance with federal, state and local laws and regulations is completed. Once federal, state and local approvals, permits and authorizations are obtained by BrightSource, the BLM will issue an NTP for the project. Construction of the 370-MW project is planned to begin in late 2010.

The ISEGS project is one of the first large-scale solar energy generation projects approved on public lands. The BLM worked closely with state and federal partners and the public in an unprecedented collaborative effort. Through this process, the BLM has gained insights into the complexity of permitting utility-scale renewable energy projects on diverse public lands, and the need for flexibility throughout the process. The BLM will continue to engage agency partners and the public in this constantly evolving environment.

1.1.1 Application/Applicant

BrightSource Energy is a U.S. Corporation whose business model includes the development and deployment of concentrating solar power tower technology. BrightSource's technical team pioneered solar energy nearly three decades ago as Luz International, Ltd., which was the first company in the world to build commercially viable solar thermal plants. In 2006, Luz' technical leadership joined forces with a finance and project development team to form BrightSource Energy. The combined experience of

BrightSource Energy's technical and commercial teams, provides a strong platform from which to realize the project.

BrightSource has formed limited liability corporations Solar Partners I, II, IV, and VIII (collectively, Solar Partners) for the purposes of filing ROW applications with the BLM for the use of public land. BrightSource (via Solar Partners) submitted Standard Form 299 applications with the BLM Needles Field Office for ROW grants associated with the ISEGS Project.

1.1.2 Purpose and Need for the Proposed Action

The BLM's purpose and need for the ISEGS project is to respond to the BrightSource applications (via Solar Partners) under Title V of the Federal Land Policy and Management Act (FLPMA), 43 United States Code (USC) for ROW grants to construct, operate, maintain, and terminate a concentrated solar electric generation plant on public land along with the associated infrastructure in compliance with FLPMA, BLM ROW regulations, and other applicable federal laws.

The CDCA Plan is specifically amended to read by this ROD to allow a solar energy generation facility on this site.

1.1.3 EIS Availability, 30 Day Review, Protests

The BLM prepared a Draft EIS for the applicant-proposed 400-MW project and a no action/no construction alternatives. The Draft EIS was circulated for agency and public review on November 10, 2009. The BLM also prepared a Supplemental Draft EIS, which was circulated for agency and public review on April 16, 2010. Those comments and BLM's responses are provided as appendices in the Final EIS. Comments on the Draft and Supplement Draft EIS were utilized to revise the Final EIS. After issuing this ROD, the BLM will publish a Notice of Availability of the ROD in the Federal Register.

Copies of the Final EIS (DOI Control No. 10-31), dated August 2010, are available at the BLM Needles Field Office (1303 S. Highway 95, Needles, California 92363) and the BLM California Desert District Office (22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553). The Final EIS is also available online at the BLM website at: http://www.blm.gov/ca/st/en/fo/needles/nefo_nepa.html.

The FEIS was available for a 30-day public review and protest period from August 8, 2010 to September 7, 2010. The comments that were submitted on the FEIS and the

Bureau's responses thereto are included in Appendix A to the Final EIS. The protests have been resolved by the Director.

1.1.4 Authority under FLPMA and NEPA

BLM's authority for the project is the FLPMA, which establishes policies and procedures for management of public lands. In Section 102(a)(8) of the FLPMA, Congress declared that it is the policy of the United States that:

...the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use (43 USC Part 1701(a)(8)).

Section 202 of the FLPMA and the regulations implementing the FLPMA land use planning provisions (43 CFR Subparts 1601 and 1610) provide a process and direction to guide the development, amendment, and revision of land use plans for the use of the public lands.

Title V of the FLPMA, 43 USC 1761–1771, authorizes the BLM, acting on behalf of the Secretary of the Interior, to grant, issue, or renew rights-of-way over, under, and through the public lands for systems for generation, transmission, and distribution of electric energy. The BLM's implementation of its statutory direction for ROW authorizations is detailed in 43 CFR Part 2800. The Authorized Officer (AO) administers the ROW authorization and ensures compliance with the terms and conditions of the ROW grant. The AO means any employee of the Department of the Interior (DOI) to whom the authority to perform the duties described in 43 CFR Part 2800 has been delegated. This authority is derived from the authority of the Secretary of the Interior, and may be revoked at any time. The authority to approve all actions pertaining to the granting and management of Title V ROWs on public lands is delegated to the respective BLM State Directors (BLM Manual 1203, Appendix 1, p.33). In California, the authority of the BLM State Director to approve actions pertaining to the granting and management of Title V ROWs has been further delegated to the Field Manager (Barstow Field Office) who will be responsible for managing this grant. In respect to this specific ROW grant, this authority has been delegated to the Field Manager, Bureau of Land Management, Needles Field Office.

NEPA. Section 102(c) of NEPA (42 USC 4321 et seq.) and the Council on Environmental Quality (CEQ) and DOI implementing regulations (40 CFR Parts 1500–1508 and 43 CFR Part 46) provide for the integration of NEPA into agency planning to insure appropriate consideration of NEPA’s policies and to eliminate delay. When taking actions such as approving ROW grants and CDCA Plan Amendments, the BLM must comply with the applicable requirements of NEPA and the CEQ NEPA regulations. Compliance with the NEPA process is intended to assist federal officials in making decisions about a project that are based on an understanding of the environmental consequences of the project. The Draft EIS, Final EIS, and this ROD document BLM’s compliance with the requirements of NEPA for the ISEGS Project.

CDCA Plan. In furtherance of its authority under the FLPMA, BLM manages public lands in the California Desert District pursuant to the CDCA Plan, and its amendments. The CDCA Plan must be further amended to allow a solar energy generation project on the project site.

Guidance and Regulations. The BLM processes ROW applications for solar development in accordance with 43 CFR Part 2804.25 and the BLM’s 2008 “Guidance for Processing Applications for Solar Power Generation Facilities on BLM Administered Public Lands in the California Desert District” which states:

When all or part of a proposed renewable energy project is located in a designated utility corridor, the impacts of occupying the utility corridor must be analyzed, along with alternatives that would help mitigate the impacts to the utility corridor. The EIS prepared for a proposed solar energy project should analyze the impact that the project would have on the ability of the utility corridor to serve its intended purpose, i.e., would the corridor continue to retain the capacity to site additional utilities in the corridor or would the project so constrain the available land within the corridor that it would limit the corridor’s ability to locate additional linear facilities, e.g. transmission lines, pipelines, etc.

Other Authorities and Policies. In conjunction with the FLPMA, BLM authorities also include:

- Energy Policy Act (119 Statutes 594, 600), Section 211, which states “It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on public lands with a generation capacity of at least 10,000 megawatts of electricity.”

- BLM's Solar Energy Development Policy (April 4, 2007) which states the BLM's general policy is issued under Instruction Memorandum 2007-097 *Solar Energy Development* Policy to facilitate environmentally responsible commercial development of solar energy projects on public lands and to use solar energy systems on BLM facilities where feasible. Applications for commercial solar energy facilities will be processed as ROW authorizations under Title V of the FLPMA and Title 43, Part 2800 of the Code of Federal Regulations (CFR). Commercial concentrating solar power (CSP) or photovoltaic (PV) electric generating facilities must comply with BLM's planning, environmental, and ROW application requirements, as do other similar commercial uses.
- Executive Order 13212 (May 18, 2001) which mandates that agencies act expediently and in a manner consistent with applicable laws to increase the "...production and transmission of energy in a safe and environmentally sound manner."
- Secretarial Order 3285 (March 11, 2009), which "...establishes the development of renewable energy as a priority for the Department of the Interior."

These authorities and policies are discussed in Section 2.1 of the FEIS.

1.1.5 Information Developed since the Final Environmental Impact Statement

Since the preparation and publication of the Final EIS, there have been minor modifications to the project that have resulted in the development of new information. The specific arrangement of the infrastructure in the Construction Logistics Area and shared facilities between Ivanpah Units 1 and 2 has been slightly modified. This modification is entirely inside the footprint analyzed within the Final EIS, and has resulted in a reduction in the overall acreage associated with approval of the four ROW grants. Specifically, the acreage evaluated in the Final EIS for the Mitigated Ivanpah 3 Alternative (Agency Preferred Alternative) totaled 3,564 acres; the acreage for the revised Mitigated Ivanpah 3 Alternative (now the Selected Alternative) totals 3,471.36 acres.

There have also been changes in the translocation requirements developed by the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG) associated with compensation for the use of desert tortoise habitat. In August 2010, the USFWS developed revised Translocation of Desert Tortoises (Mojave Population) From Project Sites: Plan Development Guidance, which is expected to be

more protective than the translocation plan as discussed in Section 4.3.2.1.4 of the Final EIS. These revised guidelines require disease testing and health assessments for tortoises being moved and for tortoises in the resident population of the receiving area. Additionally, testing and monitoring of a control population are required components of the translocation plan. The Ivanpah tortoises that are to be translocated in the initial phase of construction in the fall of 2010 will be held in quarantine until health assessments and blood testing are complete and the tortoise can be moved the following spring.

1.2 Decisions Being Made (40 CFR 1505.2(a))

1.2.1 Bureau of Land Management Right-of-Way Grant

Under federal law, the BLM is responsible for processing requests for ROW grant applications to determine whether, and under what terms and conditions, to authorize proposed projects such as renewable energy projects, transmission lines, and other appurtenant facilities on land it manages. Because the project is a privately initiated venture that will be sited on lands managed by the BLM, BrightSource Energy (the applicant), applied for ROW grants from BLM pursuant to DOI regulations. The four approved ROW grants include conditions based on the Final EIS, the Biological Opinion, the Programmatic Agreement, and other federal rules and regulations applicable to federal lands. On approval of the ROW grants, the applicant will be authorized to construct and operate the 370-MW project if it meets the requirements specified in the ROD. The ROD requires the applicant to secure certification from the California Energy Commission (CEC) before the BLM will issue a Notice to Proceed (NTP) to the applicant. On receipt of the NTP, the applicant will be authorized to construct and operate the 370-MW project on the project 3,471.36 acre site. To the extent the Selected Alternative does not progress to construction, operation, or is proposed to be changed to the extent that it appears to the BLM to be a new project proposal on the approved project site, that proposal is subject to NEPA review.

1.2.2 Land Use Plan Amendment

1.2.2.1 California Desert Conservation Area Plan

The management of BLM lands in the California Desert District is governed by the CDCA Plan. The CDCA Plan, while recognizing the potential compatibility of solar

generation facilities on public lands, requires that all sites associated with power generation or transmission not specifically identified in the CDCA Plan for a specific project site be considered through the CDCA Plan Amendment process. The Planning Criteria for considering a CDCA Plan Amendment are discussed in detail in Chapter 4.10, Land Use and Corridor Analysis, in the Final EIS, and in Chapter 7 of the CDCA Plan.

The project site is currently classified as Multiple-Use Class L (Limited Use) in the CDCA Plan. That classification is intended to protect sensitive, natural, scenic, ecological, and cultural resource values. Public lands classified as Limited Use are managed to provide for multiple use of resources at a lower intensity, ensuring that sensitive values are not significantly diminished.

Based on the Multiple Use Class Guidelines provided in Table 1 in the CDCA Plan, solar uses are conditionally allowed in the Multiple Use Class L designation contingent on NEPA requirements being met for the proposed use. The Final EIS and ROD for the 370 MW project meet NEPA requirements for consideration of the project as described in detail in the Final EIS, Section 4.20. The CDCA Plan is specifically amended by this ROD to allow a solar energy generation facility on this site.

1.2.2.2 Guidance for Processing Applications on BLM Lands

Pursuant to the Guidance for Processing Applications for Solar Power Generation Facilities on BLM Administered Public Lands in the California Desert District (BLM 2008) and 43 CFR Part 2804.25:

“When all or part of a proposed renewable energy project is located in a designated utility corridor, the impacts of occupying the utility corridor must be analyzed, along with alternatives that would help mitigate the impacts to the utility corridor. The EIS prepared for a proposed solar energy project should analyze the impact that the project would have on the ability of the utility corridor to serve its intended purpose, i.e., would the corridor continue to retain the capacity to site additional utilities in the corridor or would the project so constrain the available land within the corridor that it would limit the corridor’s ability to locate additional linear facilities, e.g. transmission lines, pipelines, etc.”

As discussed in Section 4.6.2.1, Utility Corridors, in the Final EIS, the project site is within existing designated Utility Corridor “D” and “BB” Section 368 115-238 (CDCA N, 368 115-238). The site occupies approximately 60 percent of the two-mile width of Corridor “D”, less than five percent of the southern portion of Corridor “BB”, and 100 percent of the northern portion of Corridor “BB”. Although the project will occupy 100 percent of the northern portion of Corridor “BB”, it will not preclude future use of that corridor for other utilities.

The potential project impacts related to occupying a utility corridor are evaluated in Section 4.6.2.1, Utility Corridors, in the Final EIS. In the immediate vicinity of the project site and in Utility Corridors “D” and “BB”, additional capacity is available for future projects. Joint use of the corridors is adequate to accommodate the 370 MW project and its ancillary facilities, as well as current authorized but yet unbuilt and projects which are in planning and development.

1.2.3 Revisions to Open Routes

In 2002, the BLM updated access plans and routes in the *Northern and Eastern Mojave Desert Management Plan* (NEMO) Amendment to the CDCA Plan. The NEMO Amendment assigned and/or revised access for off-highway vehicle (OHV) routes in the northern and eastern Mojave Desert. Currently, there are three open routes traversing the project site: Routes 699226 (7,200 feet affected), 699198 (6,500 feet affected), and Colosseum Road (5,000 feet affected). As part of project construction, the portions of these routes within the project boundaries will be closed as the phased construction and fencing of the project occurs.

The process for changing routes is described in the CDCA Plan Motorized Vehicle Access Element and the BLM guidance on the Comprehensive Travel and Transportation Management (CTTM) program. Pursuant to BLM Instruction Memorandum No. 2008-014 - Clarification of Guidance and Integration of Comprehensive Travel and Transportation Management Planning into the Land Use Planning Selection – the designation of individual routes within a Limited area is an implementation process that may be completed concurrent with the Land Use Plan but is not a Land Use Plan decision. Changes to a travel network in a Limited area may be made through activity level planning or with site-specific National Environmental Policy Act (NEPA) analysis. They do not require a Land Use Plan amendment. Therefore, revision processes recognize the changing contexts and need for flexibility in allowing OHV public access on BLM-managed lands. The Motorized Vehicle Access Element of the CDCA Plan (page 82) describes the process for changing the designations of vehicle access routes as:

“Decisions affecting vehicle access, such as area designations and specific route limitations, are intended to meet present access needs and protect sensitive resources. Future access needs or protection requirements may require changes in these designations or limitations, or the construction of new routes...Access needs for other uses, such as roads to private lands, grazing developments, competitive events, or communication sites, will be reviewed on an individual basis under the authority outlined in Title V of FLPMA and other appropriate regulations. Each proposal would be evaluated for environmental effects and

subjected to public review and comment. As present access needs become obsolete or as considerable adverse impacts are identified through the monitoring program, area designations or route limitations will be revised. In all instances, new routes for permanent or temporary use would be selected to minimize resource damage and use conflicts, in keeping with the criteria of 43 CFR 8342.1.”

The administrative process for revising route designations given the evolving and changing priorities for lands under its control is provided in the CTTM and Land Use Planning (LUP) programs. Therefore, this administrative process along with the administrative process described in the CDCA Plan, and as allowed under Title V of the FLPMA, will be implemented to revise the affected segments of the open routes within the project site to closed routes. In addition, the perimeter maintenance roadways authorized under non-exclusive FLPMA right-of-way grants, will be allowed to remain open for public use to connect around the perimeter of the solar facility to mitigate for the loss of closed routes for the term of the right-of-way grants. Upon decommissioning of the project, BLM will revisit the travel needs of the area, and determine whether further changes are needed.

1.2.4 What is Not Being Approved

The applicant filed four ROW applications totaling 3,400 acres with BLM for the ISEGS project on August 29, 2007. The applications proposed using BrightSource’s solar thermal technology to develop ISEGS as three separate power plants on three separate ROWs, and using a fourth ROW as a location for common areas and facilities. Each power plant would use a field of mirrors, called heliostats, to reflect sunlight to a boiler on top of a centrally-located power tower. Since the original application, as part of the environmental review process, the applicant has modified the size of the footprint of the proposed facility, and modified the arrangement of infrastructure within the facility boundaries. However, the basic size, proposed technology, and project design of three power plants surrounding a common-use area has remained the same. The major project modifications that have occurred since the original application include:

- In May 2008, the applicant revised their proposed configuration of mirrors within the heliostat fields. This resulted in a reduction in the number of heliostats, but an increase in the proposed project acreage to 3,700 acres.
- In June 2008 and May 2009, in response to the development of more detailed engineering requirements associated with stormwater management, the applicant revised the acreage of the requested ROW area up to 4,073 acres. The result from the May 2009 revision was evaluated in the Draft, Supplemental Draft, and Final EISs as the applicant’s proposed project.

- In February 2010, the applicant provided a detailed project description of a reduced acreage alternative, designated in the Supplemental DEIS as the Mitigated Ivanpah 3 Alternative, for detailed evaluation in the EIS. That modification reconfigured the boundary between Ivanpah Units 2 and 3, moved the northern boundary 1,900 feet to the east of where it had been located in the proposed project, reduced the number of power towers in Unit 3 from five to one, and reduced the power output from 400 to 370 MW. The modification was designed specifically to reduce impacts to biological resources in the northern portion of the proposed project area.
- Also in February 2010, the applicant provided an outline of how the project boundaries could potentially be modified closer to I-15. This outline was used as the basis for BLM's analysis of the Modified I-15 Alternative in the Supplemental DEIS and the Final EIS.

As a result of BLM's selection of the Mitigated Ivanpah 3 Alternative as the Selected Alternative, this ROD does not approve the following:

- The original August 2007 application.
- The applicant's proposed project. This includes the 433 acre northern portion of Ivanpah Unit 3 which was included within the footprint of the proposed project, but not included within the Mitigated Ivanpah 3 Alternative. By not being approved for any use in this ROW grant and Plan amendment, that 433 acre area will continue to be managed by BLM in accordance with the agency's multiple-use mandate, and within the parameters of the CDCA Plan. This could potentially include consideration of this area for a different solar ROW application.
- The Modified I-15 Alternative.
- Any of the other proposed alternatives

1.3 Right-of-Way Requirements (43 USC 1764; 1765)

SF 2800-14 BLM (Right-of-Way Lease/Grant), the instrument to authorize the right-of-way grant for the project, includes the POD and all other terms, conditions, stipulations, and measures required as part of the grant authorization. Consistent with BLM policy, the ISEGS energy development ROW grants will include a due diligence and performance bonding requirement for installation of facilities consistent with the approved POD. Construction of the ISEGS solar energy facilities must commence within 3 years after the effective date of the ROW grants, as well as beginning construction for subsequent phases, for the ROW holder to be compliant with use of the grants.

1.4 Summary of Conclusions

The Selected Alternative for the ISEGS project is the alternative that provides the most public benefits and avoids the most resource impacts for the following reasons:

- The Selected Alternative would reduce the acreage associated with Ivanpah Unit 3 by moving the northern boundary of the ROW grant approximately 1900 feet south of its location in the proposed project, resulting in a reduction of 433 acres of disturbance in that area
- The 433-acre area that would be eliminated from the proposed project alternative would be designated as the Northern Rare Plant Mitigation Area (BSE 2010a).
- The Selected Alternative would also eliminate the need to grade approximately 109 acres within the 377-acre CLA area.
- The Selected Alternative is a reduction of about 15% from the original project footprint.
- The Selected Alternative would require approximately 40,000 fewer heliostats than the proposed project, or a total of 173,500. The reduction would be reached by not installing heliostats in the 433 acre northern portion of Ivanpah Unit 3.
- The number of power towers is reduced to one in Unit 3 of the Selected Alternatives.
- The volume of water required to support the Selected Alternative would be slightly reduced from that required for the proposed project. This reduction would be due to the reduced number of heliostats that require washing in the Selected Alternative. Because the reduction in the number of heliostats is approximately 18.7 percent, and heliostat washing is the largest use of water during operations, it is estimated that the volume of water required for operations would be reduced by about 18.7 percent.
- Overall, the Selected Alternative would result in a shorter, less obtrusive re-routing of trail 699226 than would be associated with the proposed project.
- The revised northern boundary of Unit 3 in the Selected Alternative was designed, in part, to avoid the installation of heliostat fields in the most active drainages in this area. Accordingly, the Selected Alternative would require an amount of grading, site disturbance, vegetation removal, and soil compaction that

is substantially reduced from that associated with the proposed project (BSE 2010a).

- The construction equipment used for both alternatives would be the same; however, the areas and duration needed for the use of grading equipment would be reduced for the Selected Alternative.
- The primary difference is that the Selected Alternative is expected to generate a reduced volume of non-hazardous wastes, as compared to the proposed project. This is due to the reduced size of the Selected Alternative, including construction of three power tower receivers instead of seven, and installation of 40,000 fewer heliostats (BSE 2010a).

2. Mitigation and Monitoring

2.1 Required Mitigation

The ISEGS Project includes the following measures, terms, and conditions:

- Those Mitigation Measures from Chapter 4, Affected Environment and Environmental Consequences, in the Final EIS, which are adopted by BLM. Those measures which are adopted are specified in Appendix 6.
- Terms and Conditions in the Biological Opinion provided in Appendix 2, Biological Opinion.
- Terms and Conditions in the Programmatic Agreement provided in Appendix 3, Programmatic Agreement.

The complete language of these measures, terms, and conditions is provided in the Plan of Development (POD) for the 370 MW Selected Alternative and is contained in Appendix 4 of this ROD (the Compliance Monitoring Plan). The BLM has incorporated these requirements into these ROW grants as terms and conditions. The measures, terms, and conditions included in Appendix 4 are determined to be in the public interest pursuant to 43 CFR 2805.10(a)(1).

2.2 Monitoring and Enforcement (40 CFR 1505.2(c))

A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation (40 CFR 1505.2(c)). Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation and other conditions established in the Final EIS or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

- a. Include appropriate conditions in grants, permits or other approvals;
- b. Condition funding of actions on mitigation;
- c. Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures they have proposed and that were adopted by the agency making the decision; and
- d. Upon request, make available to the public the results of relevant monitoring (40 CFR 1505.3).

The Compliance Monitoring Plan for the ISEGS Project is provided in Appendix 4 of this ROD.

The BLM is the federal lead agency for the ISEGS Project under the National Environmental Policy Act (NEPA). The BLM is responsible for ensuring compliance with all adopted mitigation measures for the ISEGS project in the Final EIS. The complete language of all the measures is provided in the POD, and in Appendix 4, Compliance Monitoring Plan. The BLM has also incorporated this mitigation into these ROW grants as terms and conditions. Failure on the part of Solar Partners, as the grant holder, to adhere to these terms and conditions could result in various administrative actions up to and including suspension and even termination of the ROW grants and requirements to remove the facility and rehabilitate disturbances.

2.3 Mitigation Measures Not Adopted (40 CFR 1505.2(c))

As discussed above, a Compliance Monitoring Plan for the project has been adopted and is provided in Appendix 4 to this ROD. There are no BLM identified mitigation measures that have not been adopted in this ROD.

2.4 Statement of All Practicable Mitigation Adopted (BLM H-1790, p.104; 40 CFR 1505.2(c))

As required in the BLM *NEPA Handbook H-1790-1* and 40 CFR 1505.2(c), all practicable mitigation measures that are necessary to fully mitigate the potential effects of the project according to federal laws, rules, policies and regulations have been adopted by this ROD for the ISEGS project. The complete language of those measures is provided in Appendix 6 of this ROD. Additional mitigation may be necessary to fully mitigate potential effects of the project according to State laws (including the California Environmental Quality Act), rules, policy, or regulations.

2.5 Coordination with other BLM Monitoring Activities

In 2007, the BLM and the California Energy Commission (CEC) formalized a Memorandum of Understanding (MOU) for the joint environmental review of solar thermal power plant projects to be located on public lands. In September 2010, that MOU was amended to ensure that jointly reviewed and approved solar thermal power plant projects, located on public lands, are constructed, operated, maintained, and terminated in conformity with the decisions issued by the BLM and the CEC.

The MOU Amendment specifically indicates that it is in the interest of the BLM and CEC

...to share in construction compliance, environmental compliance, design review, plan check, and construction, maintenance, operation and termination inspection (collectively "compliance review") of solar thermal power plant projects on public lands, to avoid duplication of staff efforts, to share staff expertise and information, to promote intergovernmental coordination at the state and federal levels, to develop a more efficient compliance review process, and to meet state and federal requirements.

As documented in the MOU Amendment, BLM will provide primary compliance oversight for the right-of-way terms and conditions that are required by the BLM and that are separate and apart from those for which the primary oversight is being administered by the CEC. CEC routinely monitors compliance with State and local building codes and requirements through the Chief Building Official selected for the project.

As part of the MOU Amendment, the BLM and CEC agree to communicate and cooperate in a manner in order to avoid duplication of efforts and to assist each other in effective implementation of compliance efforts for the construction, maintenance, operation, and termination of the ISEGS project.

The MOU Amendment is an attachment to the Compliance Monitoring Plan which is provided in Appendix 4.

The BLM is also developing a protocol for long-term monitoring of solar energy development with Argonne National Laboratories, and the U.S. Department of Energy. The draft protocol recommends the development of a comprehensive monitoring program covering a broad list of resources. The draft protocol also recommends the involvement of other federal agencies, including the National Park Service and the U. S. Fish and Wildlife Service, and state agencies with a likely interest in long-term monitoring, as well as stakeholder engagement. As the protocols are finalized for this program, the BLM expects to participate fully in these endeavors and to engage solar energy applicants and other federal and state agencies. As long term monitoring plans evolve, the BLM and its assigns may exercise the United States' retained right to access the lands covered by the grant, and conduct long-term monitoring activities.

3. Management Considerations

3.1 Decision Rationale

This decision approves four separate ROW grants for the ISEGS Project in accordance with the Agency Preferred Alternative (Selected Alternative) as analyzed in the Final EIS. The BLM decision to authorize this activity is based on the rationale described in the following sections.

3.1.1 Respond to Purpose and Need

Approval of the ROW grants for the Selected Alternative responds to BLM's purpose and need for the ISEGS project by responding to the BrightSource applications under Title V of the Federal Land Policy and Management Act (FLPMA) (43 United States Code [USC] 1701) for four separate ROW grants to construct, operate, maintain, and terminate a solar energy generation facility on public lands in compliance with the FLPMA, BLM ROW regulations, and other applicable federal laws.

The CDCA Plan, while recognizing the potential compatibility of solar generation facilities on public lands, requires that all sites associated with power generation or transmission not already identified in that plan be considered through the plan amendment process. Therefore, prior to issuance of a ROW grant for the ISEGS project, the BLM will amend the CDCA Plan as required to allow for that solar use on the project site.

Under the Energy Policy Act (2005), federal agencies are directed to encourage the development of renewable energy. By entering into a Memorandum of Understanding (MOU) with the California Energy Commission (CEC), National Park Service (NPS), United States Department of Energy (DOE), and the United States Army Corps of Engineers (Corps), the BLM has committed to work with State and federal agencies to achieve California's Renewable Portfolio Standards (RPS) energy goals and greenhouse gas emission reduction standards in a manner that is timely and in compliance with federal and State environmental laws. The purpose of the MOU is to assist with the implementation of applicable State and federal laws, regulations, and policies.

The construction, operation, maintenance, and termination activities associated with the Selected Alternative, either singularly or with mitigation, are in conformance with the following land use plans and policies:

- BLM policy and guidance for issuing ROW grants, including BLM Manual 2801.11;
- *California Desert Conservation Area Plan* (1980, as amended); a plan amendment is required to identify the site as one used for solar generation within the CDCA; and,
- *Northern and Eastern Mojave Desert Management Plan* (NEMO) Amendment to the CDCA Plan.

The ISEGS 370-MW Mitigated Alternative 3 meets the BLM purpose and need for the project.

3.1.2 Achieve Goals and Objectives

The 370-MW Selected Alternative meets all project objectives, and is technically and legally feasible. It also helps meet federal and state objectives for renewable energy development. The Selected Alternative provides for the best balance between maximizing renewable energy capacity while reducing adverse impacts as compared to the other action alternatives. The project complies with CDCA Plan objectives (discussed in Section 3.1.4 below).

3.1.3 Required Actions

The following federal statutes require that specific actions be completed prior to issuance of a ROD and project approval:

3.1.3.1 Endangered Species Act of 1973

Under Section 7 of the Endangered Species Act (ESA), as amended (16 United States Code [USC] 1531 et seq.), a federal agency that authorizes, funds, or carries out a project that “may affect” a listed species or its critical habitat must consult with the USFWS. The BLM prepared a Biological Assessment for the USFWS in accordance with Section 7 of the ESA for potential effects to the listed desert tortoise. The USFWS has issued a Biological Opinion (BO) for the project which is provided in Appendix 2, Biological Opinion, in this ROD. Measures included in the BO would reduce any anticipated adverse impacts, and the BLM’s issuance of an NTP will require that BrightSource complies with the BO. Furthermore, the ROW grant contains a standard stipulation that requires compliance with the BO.

3.1.3.2 Bald and Golden Eagle Protection Act

This Act provides for the protection of bald and golden eagles by prohibiting, except under certain specified conditions, disturbance or harm of these species. To comply with the Act and based on the US Fish and Wildlife Service’s recommendation (memo dated September 15, 2010, available as part of the project record), and in accordance with BLM’s Instruction Memorandum (IM) 2010-156, the BLM will require BrightSource to develop an Avian Protection Plan (APP) within six months of initiating facility construction. This APP will identify steps BrightSource will take to ensure eagle impacts are mitigated to the extent possible including but not limited to on-going surveys, impact monitoring, and facility design.

3.1.3.3 National Historic Preservation Act

The Section 106 process has been completed for the ISEGS project. Section 106 compliance is in accordance with the Programmatic Agreement (PA, pursuant to 36 CFR 800.14(b)) executed by signature through the BLM and the California and Nevada State Historical Preservation Officers (SHPO), the Advisory Council for Historic Preservation, and other signatures in September 2010. The PA is provided in Appendix 3, Programmatic Agreement.

3.1.3.4 Clean Air Act as Amended in 1990

Title 40 CFR Section 51 (Subpart W - Determining Conformity of General Federal Actions to State or Federal Implementation Plans), Title 40 CFR Section 93 (Subpart B - Determining Conformity of General Federal Actions to State or Federal Implementation Plans) and 42 USC Section 7606(c) require federal actions to comply with the requirements of the Clean Air Act (CAA). The ISEGS project is expected to meet the requirements of the CAA based on compliance. The NTP issued by the BLM is contingent upon BrightSource obtaining any necessary permits and compliance of the ISEGS Project with any mitigation, terms, conditions, and stipulations related to emission controls and reductions during project construction, maintenance, operation, and decommissioning, as determined by the applicable state permitting authority.

3.1.3.5 Clean Water Act

Section 404 of the Federal Clean Water Act (CWA) authorizes the U.S. Army Corps of Engineers to regulate the discharge of dredged or fill materials into navigable waters of the United States (waters of the U.S.), including certain wetlands and other waters of the U.S. The Corps has determined that the Selected Alternative does not involve discharge of these materials into the waters of the United States, and is therefore in compliance with the CWA.

3.1.4 Incorporation of CDCA Plan Considerations

An amendment to the CDCA Plan is warranted. The record indicates that the Selected Alternative for the ISEGS project can be constructed on BLM-administered lands and that project construction will result in fewer significant, unmitigable impacts to biological, cultural, water, and visual resources than would occur with the other Build Alternatives with comparable energy production analyzed in the Final EIS.

3.1.5 Identify Site Location per CDCA Plan

The BLM has found that the lands in the Selected Alternative can be designated for solar energy development based on compliance with the requirements of NEPA. The CDCA Plan amendment applies to the public lands within the boundary of the site for the Selected Alternative as shown in Figure 3, Appendix 5, and as specified below.

<u>Legal Description</u>	<u>Acres</u>
San Bernardino Base and Meridian <u>Solar Partners II, LLC CACA-49504</u>	
Ivanpah 1 Site	914.03 ac.
T. 16 N., R.14 E., sec. 2, lots 1 and 2 in the NW1/4, lots 1 and 2 in the NW1/4, , SW1/4, and W1/2SE1/4; sec. 3, lots 1and 2, S1/2NE1/4, SE1/4NW1/4, E1/2SW1/4, and SE1/4; sec. 10, NE1/4, E1/2NW1/4; sec. 11, NW1/4NE1/4, NW1/4.	
<u>Solar Partners I, LLC CACA-48668</u>	
Ivanpah 2 Site	1076.51 ac.
T. 17 N., R. 14 E., sec. 27, SW1/4NW1/4, SW1/4, SW1/4SE1/4; sec. 28, S1/2NE1/4,SW1/4NW1/4, E1/2SW1/4, SE1/4; sec. 33, E1/2, E1/2W1/2; sec. 34, W1/2E1/2, W1/2.	
<u>Solar Partners VIII, LLC CACA-49503</u>	
Ivanpah 3 Site	1,234.93 ac.
T. 17 N., R.14 E., sec. 20, S1/2NE1/4, SE1/4; sec. 21, S1/2N1/2, S1/2; sec. 22, SW1/4NW1/4, W1/2SW1/4; sec. 27,W1/2NW1/4; sec. 28, N1/2, SW1/4; sec. 29, E1/2, SE1/4NW1/4, E1/2SW1/4; sec. 33, E1/2W1/2.	
<u>Solar Partners IV, LLC CACA-49502</u>	

Construction Logistics Area

245.89 ac.

T. 16 N., R. 14 E., SBBM

sec. 1, lot 1 in the NE $\frac{1}{4}$, W $\frac{1}{2}$ of lot 2 in the NW $\frac{1}{4}$, lot 1 in the NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$;

sec. 3, lot 2, 3, and 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$;

sec. 4 lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$;

T. 17 N., R 14 E., SBBM

sec. 17, S $\frac{1}{2}$ SE $\frac{1}{4}$;

sec. 20, NW $\frac{1}{4}$ NW $\frac{1}{4}$;

sec. 21, N $\frac{1}{2}$ N $\frac{1}{2}$;

sec. 22 W $\frac{1}{2}$ W $\frac{1}{2}$;

sec. 27, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

sec. 33, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;

sec. 34, W $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$;

sec. 35, S $\frac{1}{2}$.

3.1.6 Statement of No Unnecessary or Undue Degradation (43 USC 1732(b))

Congress declared that the public lands be managed for multiple use and sustained yield, in a manner to protect certain land values, to provide food and habitat for species, and to provide for outdoor recreation and human occupancy and use (43 USC 1701 (a)(7), (8)). Multiple use management means that public land resources are to be managed to best meet the present and future needs of the American public, balanced to take into consideration the long term needs of future generations without permanent impairment of the lands (43 USC 1702(c)). BLM manages public land through land use planning, acquisition, and disposition, and through regulation of use, occupancy, and development of the public lands (Subchapters II and III, respectively, 43 USC 1711 to 1722, and 1731 to 1748).

The FLPMA specifically provides that in “managing public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue

degradation of the lands.” 43 USC Section 1781(b). The process for siting and evaluating the ISEGS project has included extensive efforts on the part of BLM, the applicant, CEC, public commentors, and other agencies in order to identify a project that accomplishes the purpose and need and other project objectives, while preventing, to the extent possible, any unnecessary or undue degradation of the lands. These efforts have included:

- Siting of the proposed facility in a location in which solar power development can be authorized (following NEPA review), and which has not been specifically designated for the protection of any resources.
- Modification of the proposed boundaries of the facility to minimize impacts to mineral, biological, and other resources.
- Evaluation of project location alternatives which could meet the purpose and need for the proposed project, but result in the avoidance and/or minimization of impacts.
- The development of mitigation measures, including compensation requirements for the displacement of desert tortoise habitat, to further avoid or minimize impacts.

In addition, BLM ROW regulations at 2805.11(a)(1) to (5) require determinations for the following:

BLM will limit the grant to those lands which BLM determines:

- (1) You will occupy with authorized facilities;
- (2) Are necessary for constructing, operating, maintaining, and terminating the authorized facilities;
- (3) Are necessary to protect the public health and safety;
- (4) Will not unnecessarily damage the environment; and
- (5) Will not result in unnecessary or undue degradation.

The lands described in section 3.1.5 are the minimum necessary to accommodate the 3,471.36 acre project. All areas under the Selected Alternative that were not necessary for the construction, operation, and maintenance of the facilities were removed from the project description. In addition to eliminating approximately 433 acres of sensitive plant habitat from the project, the applicant also eliminated over 100 acres of land from within the Construction Logistics Area that were no longer needed for the succulent plant storage nursery. The applicant has further consolidated activities within the construction staging area to minimize the amount of additional temporary workspace needed to construct and assemble facility components. All temporary disturbances associated with underground utilities will be immediately restored and revegetated to minimize erosion in accordance with approved restoration and revegetation plans.

Public health and safety will not be compromised by the project as construction work areas will be posted and public access to those areas controlled to prevent possible injury to the public. During operations site security will be maintained with perimeter control fencing and security personnel.

The Selected Alternative will achieve almost all of the beneficial impacts of the proposed project, including socioeconomic benefits of increases in employment and fiscal resources, and displacement of greenhouse gas and air pollutant emissions associated with fossil-fueled power plants. While meeting these objectives and providing these beneficial impacts, the adverse impacts of the Selected Alternative will be much lower than the proposed project, especially in the areas of Biological Resources, Soil and Water Resources, and Visual Resources. The Selected Alternative will also have lower impacts to visual resources and traffic and transportation than the Modified I-15 Alternative. Based on the comparative analysis of the ability of each alternative to meet the purpose and need, and the environmental impacts that would be associated with each alternative as discussed in the Final EIS and as summarized above, the Mitigated Ivanpah 3 Alternative was identified by BLM as the preferred alternative, and is the Selected Alternative in this ROD. The Selected Alternative does not unnecessarily damage the environment or create unnecessary or undue degradation of the lands.

As noted above, Congress specifically recognized multiple use and sustained yield management for the CDCA, through the CDCA Plan, providing for present and future use and enjoyment of the public lands, The 1980 CDCA land use plan, as amended, identifies allowable uses of the public lands in the CDCA. In particular, it authorizes the location of solar power generating facilities in MUC L and other land classifications upon NEPA review. BLM has conducted that review, and as indicated in the FEIS, and in portions of this ROD, has adjusted the project to meet public land management needs and concerns. In particular, the BLM has determined that the Selected Alternative meets national renewable energy policy goals and objectives and falls within the guidelines of the CDCA Plan. In addition, the project meets the requirements of applicable ROW regulations inasmuch as it includes terms, conditions and stipulations that are in the public interest, prevents surface disturbance unless and until a Notice to Proceed is secured, is issued for a period of 30 years, subject to renewal and periodic review, and contains diligence and bonding requirements to further protect public land resources. This approval provides that public land will be occupied only with authorized facilities and only to the extent necessary to construct, operate, maintain and terminate the project. BLM conditions of approval provide for public health and safety, protect the environment and the public lands at issue. These conditions of approval include compliance with this ROD, the FEIS, the Biological Opinion/Conference Opinion, section 106 requirements and the PA. All of these federal requirements provide the basis for BLM's determination that the project will not unnecessarily and unduly degrade

these public lands. In addition, the CEC Conditions of Approval and the Corps section 404 requirements are all conditions of the BLM approval of this project and provide additional protection to public land resources.

3.1.7 Statement of Technical and Financial Capability (43 USC 1764(j))

The Code of Federal Regulations provides federal agencies the authority to require a project application to include information on an applicant's technical capability to construct, operate, and maintain the solar energy facilities applied for (43 CFR 2804.12(a)(5)).

This technical capability can be demonstrated by international or domestic experience with solar energy projects or other types of electric energy-related projects on either federal or non-federal lands. The applicant has provided information on the availability of sufficient capitalization to carry out development, including the preliminary study phase of the project, as well as the site testing and monitoring activities. BrightSource Energy has filed the necessary documentation showing that they are qualified. They have also applied to DOE, and received preliminary DOE approval for \$1.37 billion in loan commitments.

The applicant statement of technical and financial capability is provided in their right-of-way applications for the project.

3.2 Relationship to BLM and other Agency Plans, Programs, and Policies

3.2.1 Tribal Consultation

The BLM conducted government-to-government consultation with a number of Tribal governments and Tribal representatives as described in detail in Section 4.4.2, Native American Consultation, in the Final EIS.

That consultation with Native American Tribes and the discussions with Tribal organizations and individuals revealed concerns about the importance and sensitivity of cultural resources on and near the ISEGS project site, and concerns regarding the use of water, which is an important resource for the tribes.

The following contacts were made with all tribes identified that would be associated with lands proposed for the facility. No specific concerns were expressed by any of the

Tribes consulted. Although information was requested, no sites of traditional or religious use were identified in the area by the Tribes. One Tribal elder Chemehuevi enrolled at Colorado River Indian Tribes) did note that 'Ivanpah' meant 'good water' in Chemehuevi. The project is within the homeland of the Chemehuevi and Southern Paiute. Numerous letters as well as phone calls and face to face meetings occurred with Tribes on this project:

Letter #1: October 4, 2007 Initiating coordination/consultation with results of archaeological survey

Letter #2: March 5, 2009 Follow-up and results of additional survey

Letter #3: December 16, 2009 Draft EIS

Letter #4: April 16, 2010 Supplemental Draft EIS

The BLM consulted with Native American Tribes and interested tribal members on the development and execution of a Programmatic Agreement (PA) for the ISEGS project. In accordance with 36 Code of Federal Regulations (CFR) Part 800.14(b), PAs are used for the resolution of adverse effects for complex project situations and when effects on historic properties (resources eligible for or listed in the National Register of Historic Places [National Register]) cannot be fully determined prior to approval of an undertaking.

3.2.2 FWS Section 7 consultation

The BLM permit, consultation, and coordination with the USFWS required for the ISEGS project complies with the federal ESA regarding potential take of the desert tortoise, which is listed as a threatened species.

The BLM submitted a Biological Assessment (BA) for take of desert tortoise to the USFWS for the ISEGS project on December 7, 2009.

The Biological Opinion was issued by USFWS on October 4, 2010. In the BO, the USFWS conducted analysis of the impact of the Selected Alternative on the desert tortoise and its habitat, including:

- Scope of the proposed action;
- Environmental baseline, including evaluation of habitat characteristics and estimation of the number of tortoise present by various methods;
- Status of the tortoise populations in the area;
- Translocation strategy;

- Impacts due to construction, operations, and restoration;
- Impacts due to loss of habitat; and
- Effects of compensation measures.

Based on this analysis, the USFWS stated “it is our biological opinion that the proposed action is not likely to jeopardize the continued existence of the desert tortoise.” This conclusion was reached for a variety of reasons, including:

1. Project activities are likely to directly kill few subadult/adult desert tortoises because BrightSource will implement numerous measures to reduce the potential that desert tortoises will occupy project work sites (i.e., clearance surveys, exclusion fencing, translocation, qualified biologists, desert tortoise monitors).
2. The number of desert tortoises injured and killed as a result of translocation will likely be small relative to the number of desert tortoises that occur within the Northeastern Mojave Recovery Unit, and across the range of the species.
3. BrightSource will implement numerous measures to reduce the potential for increased predation by common ravens and spread of non-native plant species.
4. Current information from permanent study plots and line distance sampling does not document a statistical trend in adult desert tortoise densities in this recovery unit. Therefore, we have no information to indicate that the loss of a small number of individuals as a result of this project would appreciably reduce our ability to reach population recovery objectives for the desert tortoise in the Northeastern Mojave Recovery Unit.
5. This project would not result in loss of desert tortoise habitat in areas that the Bureau or other agencies have designated for intensive management to achieve conservation of desert tortoises.
6. Compensation requirements through the Bureau and California Department of Fish and Game will result in an increase in the amount of existing habitat that is managed for the conservation of the desert tortoise and will likely lead to restoration of lost or degraded habitat within these areas.
7. Regional management actions, proposed by the Bureau, are likely to aid in reducing common raven predation in a portion of the desert tortoise’s range.

The ROD incorporates the results of the BO, including a condition of approval requiring the applicant to comply with the reasonable and prudent measures and required terms and conditions. The BO is provided in Appendix 2, Biological Opinion, of this ROD. It is also available on the BLM website.

3.2.3 Bald and Golden Eagle Protection Act

The BLM coordinated with FWS concerning requirements of the Bald and Golden Eagle Protection Act. In order to comply with the Act, and based on the USFWS recommendation (memo dated September 15, 2010, available as part of the project record), the BLM will require the mitigation measure listed in the FEIS as BLM BIO-28. This measure requires submission of an Avian Protection Plan within 6 months of the initial BLM Notice to Proceed, and implementation of the plan within one year of the Notice to Proceed.

3.2.4 Section 106 and the Programmatic Agreement

The BLM prepared a PA for the ISEGS project in consultation with the Advisory Council on Historic Preservation (ACHP), the State Historic Preservation Officer (SHPO), the CEC, interested Native American Tribes (including tribal governments as part of government-to-government consultation described earlier), and other interested parties. The executed Final PA, provided in Appendix 3 of this ROD, will govern the continued identification and evaluation of historic properties (eligible for the National Register) and historical resources (eligible for the California Register of Historic Places), as well as the resolution of any effects that may result from the ISEGS project. Historic properties and historical resources are significant prehistoric and historic cultural resources as determined by the BLM.

3.2.5 Consultation with Other Agencies

3.2.5.1 Consultation with Other Federal Agencies

As described in the following sections, the following federal agencies cooperated with the BLM on the Final EIS for the ISEGS project: the United States Department of Energy (DOE). In addition, the Environmental Protection Agency (EPA), Federal Aviation Administration (FAA), National Park Service (NPS), and the U.S. Army Corps of Engineers (Corps) provided input to the BLM on the project and the EIS.

United States Department of Energy

As discussed earlier, the DOE is the agency responsible for implementing key parts of the Energy Policy Act of 2005 including the federal loan guarantee program for eligible energy projects that employ innovative technologies. As a result, the DOE was consulted during the preparation of the Draft EIS, Supplemental Draft EIS, and Final

EIS, and was provided a copy of the preliminary Final EIS for review. The DOE provided comments to the BLM on these documents, and their comments were incorporated into the text.

United States Environmental Protection Agency

The EPA provided written comments on the proposed project and the EIS preparation during the scoping period. The EPA also provided written comments during the review period for the Draft EIS, Supplemental Draft EIS, and the Final EIS. The responses to EPA's comments on the Final EIS are provided in Appendix 1.

Federal Aviation Administration

The FAA provided written comments on the proposed project and the EIS preparation during the scoping period. The comments regarded potential effects of the project on the planned Southern Nevada Supplemental Airport.

National Park Service

The NPS provided written comments on the proposed project and the EIS preparation during the scoping period. The NPS also provided written comments during the review period for the Draft EIS and Supplemental Draft EIS.

United States Army Corps of Engineers

The Corps provided a written jurisdictional decision that the ISEGS project is unlikely to impact waters of the U.S.

3.2.5.2 Consultation with State, Regional, and Local Agencies

The following state and local agencies provided input to the BLM on the project and the EIS: California Energy Commission, San Bernardino County, Lahontan Regional Water Quality Control Board, California Department of Fish and Game (CDFG), and Mojave Desert Air Quality Management District. Details regarding the scope of this coordination are provided in Section 5.6.5. In addition to the NEPA coordination process, BrightSource may have to obtain permits and other approvals from other agencies or comply with requirements of other agencies that did not provide written input on the project and/or the EIS.

3.3 LUP Conformance (43 CFR 1610.5-3(a))

3.3.1 Conformance with the California Desert Conservation Area Plan

3.3.1.1 California Desert Conservation Area Plan

The FLPMA establishes public land policy; guidelines for administration; and provides for the management, protection, development, and enhancement of public lands. The FLPMA specifically establishes BLM's authority to grant rights-of-way for the generation, transmission, and distribution of electrical energy as follows:

- (a) The Secretary, with respect to the public lands ... are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for:
 - (4) systems for generation, transmission, and distribution of electric energy

The FLPMA is relevant to the ISEGS project because it establishes BLM's authority to grant rights-of-way on public lands for the generation, transmission, and distribution of electrical energy (FLPMA 2001). Because the FLPMA authorizes the issuance of a right-of-way grant for electrical generation facilities and transmission lines, the ISEGS project will be consistent with the FLPMA.

The CDCA Plan was developed as mandated by the FLPMA and is the land use plan (LUP) for the ISEGS project site and the surrounding area within the defined CDCA. The CDCA Plan is a comprehensive, long-range plan for the management, use, development, and protection of the public lands in the CDCA. The 25-million acre CDCA contains over 12 million acres of public lands in the California desert, which includes the Mojave Desert, the Sonoran Desert, and a small part of the Great Basin Desert. Those 12 million acres of public lands are approximately half of the total land area in the CDCA. The site proposed for the ISEGS project includes approximately 3,462 acres of land in the CDCA administered by the BLM.

Goals and actions for each resource managed by the BLM are established in the 12 Elements in the CDCA Plan. Each Plan Element provides a Desert-wide perspective of the planning decisions for one major resource or issue of public concern as well as more specific interpretation of multiple-use class guidelines for a given resource and its associated activities.

The ISEGS project site is classified in the CDCA Plan as Multiple-Use Class (MUC) L (Limited Use). MUC L, the most restrictive classification in the Plan, "...protects

sensitive, natural, scenic, ecological, and cultural resource values.” Public lands designated Class L are managed to provide for generally lower-intensity, carefully controlled multiple use of resources, while ensuring that sensitive values are not significantly diminished. The CDCA Plan states that “... electrical generation plants may be allowed ...” within the Limited Use designation. Specifically, wind and solar electrical generating facilities “... may be allowed after NEPA requirements are met.” It should be noted that electrical generating facilities using nuclear and/or fossil fuels are not allowed within the Limited Use designation.

3.3.1.2 Need for a CDCA Plan Amendment

To accommodate the ISEGS project, the CDCA Plan must be amended because “Sites associated with power generation or transmission not identified in the Plan will be considered through the Plan Amendment process (CDCA Plan at 95). As specified in Chapter 7, Plan Amendment Process, in the CDCA Plan, there are three categories of Plan Amendments:

- **Category 1:** For proposed changes that will not result in significant environmental impact or analysis through an EIS;
- **Category 2:** For proposed changes that would require a significant change in the location or extent of a multiple-use class designation; and
- **Category 3:** To accommodate a request for a specific use or activity that will require analysis beyond the Plan Amendment Decision.

Based on these criteria, approval of the ISEGS project will require a Category 3 amendment to the CDCA Plan. The amendment to the CDCA Plan to designate the ISEGS project site for solar energy generation was evaluated in the Final EIS.

Land Use Plan Amendment Analysis

The proposed land use plan amendment to be made by the BLM is a site identification decision only. The proposed solar project and all of its alternatives are located within Multiple Use Class L. The classification designations govern the type and degree of land-use action allowed within the classification area. All land use actions and resource-management activities on public lands within a multiple-use class delineation must meet the guidelines for that class. Multiple use class L allows electric generation plants for solar facilities after NEPA requirements are met. These guidelines are listed on Table 1, Multiple Use Class Guidelines, to the CDCA Plan of 1980 (at page 15). The specific application of the multiple use class designations and resource management guidelines for a specific resource or activity are further discussed in the plan elements section of

the CDCA Plan. In Class L designations, the authorized officer is directed to use his judgment in allowing for consumptive uses by taking into consideration the sensitive natural and cultural values that might be degraded.

The proposed site location for the ISEGS project meets the Multiple Use Class Guidelines (as applicable to the particular project/alternatives/site locations) as noted in the CDCA Plan for the following reasons:

1. Agriculture: Agricultural uses of Class L lands are not allowed, with the exception of livestock grazing. The site is not currently used for agriculture, and the Selected Alternative would involve use of the site for agriculture. Therefore, the project would be in conformance with this guideline.
2. Air Quality: Class L lands, including the proposed site location and the alternatives, are to be managed to protect their air quality and visibility in accordance with Class II objectives of the Federal Clean Air Act. The worst-case emissions that would be associated with the project have been compared to emissions objectives for air quality and visibility are all well below the limitations required for Class II areas. The emissions associated with the Selected Alternative would be lower than those of the proposed project. Therefore, the Selected Alternative would conform to the Class II objectives referenced in the CDCA Plan guidelines.
3. Water Quality: Class L designations will be managed to provide for the protection and enhancement of surface and groundwater resources, and BMPs will be used to avoid degradation and to comply with Executive Order 12088. Section 4.10 of the EIS evaluated the Selected Action for groundwater use conflicts, the potential to impact groundwater quality, and the potential to impact surface water resources. Development and operation of the ISEGS facility on an active alluvial fan raises concerns for changing stormwater surface flow across the project. The incorporation of low impact development practices with limited grading, and limited removal of vegetation to maintain natural sheet flow across the site were developed by the applicant, in coordination with the BLM, to reduce these potential impacts. Mitigation measures identified in the Final EIS and adopted by this Decision conform to the guidelines in Table 1 of the CDCA Plan.
4. Cultural and Paleontological Resources: Archaeological and paleontological values will be preserved and protected. Procedures described in 36 CFR 800 will be observed where applicable. As described in detail in Sections 4.4 and 4.16 of the Final EIS, cultural and paleontological resources associated with the development of the Selected Alternative would not be impacted, and therefore would conform to the guidelines. The only site that would be disturbed that was identified as eligible for inclusion in the NRHP is the existing Hoover Dam to San

Bernardino 115 kV transmission line. Replacement of a portion of the line will cause an adverse effect that is addressed under the terms of the Programmatic Agreement for the Eldorado Ivanpah Transmission Project. The identification of the site location for the proposed action or any of the alternative site locations are subject to the MUC Guidelines for cultural and paleontological resource protection as is evidenced by the applicability of the guidelines to the specific facility proposal. As such, the site location is within the MUC Guidelines for cultural and paleontological resource protection established by the CDCA Plan.

5. Native American Values: Native American cultural and religious values will be protected and preserved on Multiple Use Class L lands with appropriate Native American groups consulted. Repeated efforts and opportunities have been provided to allow tribal entities to raise concerns. No tribal entities raised concerns with the Selected Alternative, and therefore cultural guidelines with respect to requirements for consultation have been met. In addition, the protection of cultural resources ensures that preservation and protection of cultural and religious values is accomplished in accordance with the CDCA Plan MUC guideline.
6. Electrical Generation Facilities: Solar generation may be allowed after NEPA requirements are met. The analysis contained in the Final EIS, which addresses the proposed action and its alternatives, comprise the NEPA compliance required for this MUC guideline.
7. Transmission Facilities: Class L guidelines allow electric transmission to occur in designated ROW corridors. The cumulative action described for the Eldorado Ivanpah Transmission project meets this guideline for the Selected Alternative by locating the new transmission line in an existing ROW corridor.
8. Communication Sites: The Selected Alternative would not involve the installation of communications sites.
9. Fire Management: Fire suppression measures in Class L areas will be taken in accordance with specific fire management plans, subject to such conditions as the authorized officer deems necessary. The project area is within the area covered by the BLM California Desert District and Needles Field Office Fire Management Plan, 2004. That Plan addresses management and suppression of wildfires, and does not address incidents on specific facilities such as power plants. The applicant has developed fire suppression measures that will be used for the Selected Alternative, as discussed in Section 4.15 of the Final EIS.
10. Vegetation: Table 1 of the CDCA Plan includes a variety of guidelines associated with vegetation. Section 4.20 of the Final EIS, Land Use Plan Amendment Analysis, addresses conformance of the Selected Alternative with the CDCA Plan regarding the following resource areas:

- a. Native Plants
 - b. Harvesting of plants by mechanical means
 - c. Rare, Threatened, and Endangered Species, State and Federal
 - d. Sensitive Plant Species
 - e. Unusual Plant Assemblages (UPAs)
 - f. Vegetation Manipulation
11. Land Tenure Adjustment: Class L land will not be sold. The Selected Alternative would not involve any sale of public lands.
 12. Livestock Grazing: The Selected Alternative would not involve the addition of livestock grazing to a Class I area where it does not already occur.
 13. Minerals: The Selected Alternative would not involve the development of minerals on Class L lands.
 14. Motorized Vehicle Access/Transportation: Pursuant to the CDCA LUP guidelines in Class L areas, new roads may be developed under ROW grants or approved plans of operations. In areas designated as limited use area for OHV use, such as the site locations under consideration in this FEIS, changes to the transportation network (new routes, re-routes, or closures) in “limited” areas may be made through activity-level planning or with site-specific NEPA analysis (IM 2008-014). Modifications to area OHV designations (open, closed, or limited) require amendment to the RMP. There are no area OHV designations that are being made or modified through the Selected Alternative. Existing routes are being closed, and new routes are being created in limited OHV areas. As such, these changes are being made with site-specific NEPA analysis, as provided in Section 4.19 of the Final EIS. The road ROW grants being approved allow for the reconstruction of Collisseum Road as the main access road to ISEGS. This activity falls within the CDCA LUP guideline.
 15. Recreation: The Selected Alternative would not involve the use of the proposed project or alternative sites for recreational uses.
 16. Waste Disposal: The Selected Alternative would not involve the development of waste disposal sites on the proposed project or alternative sites
 17. Wildlife Species and Habitat: Table 1 of the CDCA Plan includes a variety of guidelines associated with wildlife. Section 4.20 of the Final EIS, Land Use Plan Amendment Analysis, addresses conformance of the Selected Alternative with the CDCA Plan regarding the following resource areas:
 - a. Rare, Threatened, and Endangered Species, State and Federal – In all MUC areas, all state and federally listed species and their critical habitat will be fully protected, under the Biological Opinion from USFWS. BLM has worked with the Energy Commission, USFWS, CDFG, applicant, and intervenors to develop protection and compensation measures for the

desert tortoise, which include stringent avoidance measures, the full level of compensation required by USFWS for this category of tortoise habitat, and enhancement and protection measures in other areas. Therefore, the project would comply with the guideline to provide full protection to the species.

- b. Sensitive Species – Identified species will be given protection in management decisions consistent with BLM’s policy for sensitive species management, BLM Manual 6840. The objective of this policy is to conserve and/or recovered listed species, and to initiate conservation measures to reduce or eliminate threats to BLM sensitive species to minimize the likelihood of and need for listing. No BLM sensitive species (other than the desert tortoise) are present at the project site.
 - c. The Selected Alternative, including the mitigation measures associated with these actions, would involve habitat manipulation to improve habitat (such as tortoise fencing along roads and placement of a water source in big horn sheep habitat) and introduction of native species (through the translocation of tortoises). Introduction of native species is permitted in Class L areas, and habitat manipulation is allowed subject to environmental assessment, as is done within this EIS. Therefore, the proposed project and its alternatives would be in conformance with these guidelines.
 - d. The Selected Alternative, including the translocation associated with these actions, would not involve the control of depredation wildlife and pests. Therefore, this guideline is not applicable to these actions.
18. Wetland/Riparian Areas: No wetlands or riparian areas are present in the project area.
19. Wild Horses and Burros: Under the CDCA Plan guidelines, populations of wild and free-roaming horses and burros will be maintained in healthy, stable herds, but will be subject to controls to protect sensitive resources. No wild and free-roaming horses are present in the project area. In the NEMO Plan Amendments, BLM established the AML for burros in the vicinity of the proposed project area at zero. Therefore, the Selected Alternative would conform with the requirements of the guidelines in the CDCA Plan.

3.3.1.3 Required CDCA Plan Determinations

As discussed in Chapter 7 in the CDCA Plan, the BLM must make certain required determinations in amendments to the CDCA Plan. The required determinations and how they were made for the CDCA Plan amendment for the ISEGS project are provided below.

A. Determine if the request has been properly submitted and if any law or regulation prohibits granting the requested amendment.

The applicant's request for a right-of-way was properly submitted, and this EIS acts as the mechanism for evaluating and disclosing environmental impacts associated with that applications. No law or regulation prohibits granting the amendment.

B. Determine if alternative locations within the CDCA are available which would meet the applicant's needs without requiring a change in the Plan's classification, or an amendment to any Plan element.

The CDCA Plan does not currently identify any sites as solar generating facilities. Therefore, there is no other location on public land within the CDCA which could serve as an alternative location without requiring a Plan Amendment. The proposed project does not require a change in the Multiple-Use Class classification for any area within the CDCA.

C. Determine the environmental effects of granting and/or implementing the applicant's request.

This EIS acts as the mechanism for evaluating the environmental effects of granting the right-of-way and the Plan Amendment.

D. Consider the economic and social impacts of granting and/or implementing the applicant's request.

This EIS acts as the mechanism for evaluating the economic and social impacts of granting the right-of-way and the Plan Amendment.

E. Provide opportunities for and consideration of public comment on the proposed amendment, including input from the public and from federal, State, and local government agencies.

A Notice of Intent (NOI) to amend the CDCA Plan was published in the Federal Register November 6, 2008, Vol. 72, No. 214 Fed. Reg.62671-62672. Three respondents, all government agencies, provided comments during the 30-day NOI scoping period. Although not part of BLM's required NEPA or Plan Amendment process, public comments were also received on the Preliminary Staff Assessment (PSA) published by the Energy Commission in December, 2008. In response to the PSA, 13 respondents provided comments. These included government agencies, environmental organizations, and individuals with no stated affiliation. In response to the FSA/DEIS, 40 respondents provided comments. In response to the Supplemental DEIS, 20 respondents provided comments.

The balance between resource use and resource protection is evaluated in the Final EIS. Title VI of the FLPMA, as addressed in the CDCA Plan, provides for the immediate and future protection and administration of the public lands in the California desert

within the framework of a program of multiple use and sustained yield, and maintenance of environmental quality. Multiple use includes the use of renewable energy resources, and through Title V of FLPMA, the BLM is authorized to grant rights-of-way for the generation and transmission of electric energy. The acceptability of use of public lands within the CDCA for this purpose is recognized through the CDCA Plan's approval of solar generating facilities within Multiple-Use Class L. The Final EIS identifies resources which may be adversely impacted by approval of the ISEGS project, evaluates alternative actions which may accomplish the purpose and need with a lesser degree of resource impacts, and identifies mitigation measures which, when implemented, will reduce the extent and magnitude of the impacts and provide a greater degree of resource protection.

3.3.1.4 CDCA Plan Decision Criteria

The CDCA Plan defines specific Decision Criteria to be used by the BLM in evaluating applications in the Energy Production and Utility Corridors Element of Chapter 3. The consideration of these Decision Criteria for the ISEGS project is described below.

1. Minimize the number of separate rights-of-way by utilizing existing rights-of-way as a basis for planning corridors.

The ISEGS project assists in minimizing the number of separate rights-of-way by being proposed in close proximity to existing Corridors D and BB. Electrical transmission associated with the proposed project will occur within these existing corridors, and placement of the facility adjacent to these corridors minimizes the length of new corridors necessary for transmission of natural gas to the site.

2. Encourage joint-use of corridors for transmission lines, canals, pipelines, and cables.

Placement of the ISEGS project adjacent to existing Corridor D maximizes the joint-use of this corridor for natural gas and electrical transmission.

3. Provide alternative corridors to be considered during processing of applications.

This decision criterion is not applicable to the ISEGS project. Placement of the project adjacent to existing corridors does not require designation of alternative corridors to support the proposed project.

4. Avoid sensitive resources wherever possible;

The extent to which the Selected Alternative has been located and designed to avoid sensitive resources is addressed throughout the EIS. BLM and other federal regulations that restrict the placement of proposed facilities, such as the presence of designated Wilderness Areas or Desert Wildlife Management Areas were considerations in the

original siting process used by the applicant and discussed with BLM during pre-application proceedings (43 CFR 2804.10) to identify potential project locations. The project location and configurations of the boundaries were modified in consideration of mineral resources. The alternatives analysis presented in the Draft EIS, and supplemented in the Supplemental Draft EIS and Final EIS, considered whether the purpose and need of the proposed project could be achieved in another location, but with a lesser effect on sensitive resources.

5. Conform to local plans whenever possible;

The extent to which the ISEGS project conforms to local plans is addressed within the Land Use section of the Final EIS. The proposed project is in conformance with the San Bernardino County General Plan.

6. Consider wilderness values and be consistent with final wilderness recommendations;

The ISEGS project is not located within a designated Wilderness Area or Wilderness Study Area.

7. Complete the delivery systems network;

This decision criterion is not applicable to the ISEGS project.

8. Consider ongoing projects for which decisions have been made;

This decision criterion is not applicable to the ISEGS project. Approval of the Selected Alternative will not affect any other projects for which decisions have been made.

9. Consider corridor networks which take into account power needs and alternative fuel resources.

This decision criterion is not applicable to the ISEGS project. The Selected Alternative does not involve the consideration of an addition to or modification of the corridor network. However, it does utilize facilities located within Corridors D and BB, which were designed with consideration of both power needs and locations of alternative fuel resources.

3.3.2 Northern and Eastern Mojave Desert Management Plan

Various federal regulations, Executive Orders, and the CDCA Plan require the BLM to designate routes of travel as open, limited, or closed to vehicular travel and to assure that resources are properly managed in a multiple use context. All the routes on the ISEGS site are currently classified as open routes. open routes are defined as follows:

“Access on route by motorized vehicles is allowed. Special uses with potential for resource damage or significant conflict with other use may require specific

authorization.” (Route Designations, Motorized Vehicle Access, pp. 77, CDCA Plan, 1980 (as amended))”

In 2002, in an amendment to the CDCA Plan, the BLM identified and designated many routes of travel in the *Northern and Eastern Mojave Desert Management Plan* (NEMO). That amendment to the CDCA Plan clarified, updated, and assigned designations (open, closed, or limited) to all travel routes within the NEMO amendment area.

The ISEGS project site is within the NEMO amendment area. Three open routes are shown within the boundary of the ISEGS project site and the construction laydown site. The three open routes on the ISEGS project site follow established dirt roads/trails on the site and are described briefly in Section 4.19 of the Final EIS.

The designated open routes on the ISEGS project site will be affected by the ISEGS project, which will require those routes to be closed. Specifically, all the open routes on site will be closed to public access as a result of the ISEGS project. The closure of these routes will be an administrative action by the BLM as opposed to a plan level determination. Public access previously provided by these closed routes will be maintained through facility perimeter maintenance roads, under the non-exclusive ROW to be issued to BrightSource as part of the approval of this project.

3.3.3 Utility Corridors

Approximately 50 percent of the land area for Ivanpah 1, 2, and 3 and the administrative complex/logistics area are located within existing Utility Corridors D and BB. The land area for Ivanpah 3 will cover approximately 60 percent of the 2-mile width of Corridor D. Although the ISEGS facility will result in limiting the available area within Corridor D, future linear facilities could still be placed in the remaining portion of this corridor.

For a short distance, Utility Corridor BB is split into a northern and southern portion, and the ISEGS site sits within the area between the southern and northern portions. The northern portion of corridor BB passes between Ivanpah 1 and 2, and the southern portion of Utility Corridor BB passes just south of Ivanpah 1. Construction of Ivanpah 1 will cover a small fraction (less than 5%) of the southern portion of Utility Corridor BB, and will not substantially limit future use of this portion of the corridor for other purposes. However, construction of Ivanpah 1, 2, and the construction logistics area will cover 100% of the two-mile width of the northern portion of Utility Corridor BB.

Locating parts of the ISEGS project within these utility corridors is consistent with the designation of those corridors by the BLM as utility corridors.

3.4 Adequacy of NEPA Analysis

Section 1.2 above discusses the changes to the Selected Alternative and BLM's analysis of that alternative that have occurred since the publication of the Final EIS. The two changes that were identified are:

- The reduction in the overall project acreage from the 3,564 acres evaluated in the Final EIS to 3,461.56 acres, as approved in this ROD; and
- Modification of the tortoise translocation requirements.

The reduction in project acreage involves the organizational placement of facilities within the Construction Logistics Area to make more efficient use of space. The applicant also quantified the minimum area needed for the succulent and rare plant storage nursery. The project infrastructure and construction, operation, or termination procedures remain unchanged except for the organization of these facilities within the staging area footprint. The entire project will occur within the boundaries of the Mitigated Ivanpah 3 Alternative, as it was evaluated in the Final EIS. However, the project will involve a reduced amount of acreage, and will therefore have a reduced level of impacts from that identified in the Final EIS. Therefore, the Final EIS adequately analyzes and discloses the impacts that will occur as a result of the Selected Alternative.

The modification of the translocation requirements developed by the USFWS and CDFG is discussed in Section 1.2 above. The translocation requirements are developed by those agencies to avoid or minimize impacts to the desert tortoises removed from the project site, and Mitigation Measure BIO-9 incorporates those requirements into the ROW grants. The requirements, as defined in the Final EIS, were modified by USFWS to provide a greater degree of protection to the displaced tortoises, and to increase the chances of translocation success. The USFWS discuss and analyzes the modified translocation strategy in the Biological Opinion. Therefore, this modification involves more stringent mitigation measures which will result in the Selected Alternative having a reduced level of impacts from those identified in the Final EIS.

Because these two modifications result in a reduction of impacts from those evaluated in the Final EIS, and are well within the Selected Alternative analyzed in the FEIS, additional or supplemental NEPA analysis is not required.

4. Alternatives (40 CFR 1505.2(b))

4.1 Alternatives fully analyzed

Four alternatives, including the Proposed Action, Mitigated Ivanpah 3 Alternative, Modified I-15 Alternative, and the No Action Alternative, were described in detail in Section 3 of the Final EIS, were fully analyzed in Section 4 of the Final EIS, and are briefly summarized below.

Proposed Action - The proposed ISEGS Project would be a development of three solar concentrating thermal power plants, which are comprised of fields of heliostats (elevated mirrors guided by a tracking system) focusing solar energy on boilers located on centralized power towers. Each heliostat tracks the sun throughout the day and reflects the solar energy to the receiver boiler. In each plant, one Rankine-cycle reheat steam turbine receives live steam from the solar boilers and reheats steam from the solar reheater. The applicant proposes to develop the ISEGS project as three power plants in separate and sequential phases that are designed to generate a total of 400 MW of electricity. Ivanpah 1 and 2 would each have an electrical generation capacity of 100 MW, and Ivanpah 3, a capacity of 200 MW. Shared facilities consisting of the substation, administration, and maintenance buildings would be developed during construction of the first power plant in the Construction Logistics Area (CLA) between Ivanpah 1 and 2.

Mitigated Ivanpah 3 Alternative - Similar to the proposed project, the Mitigated Ivanpah 3 Alternative will be a development of three solar concentrating thermal power plants, which are comprised of fields of heliostats (elevated mirrors guided by a tracking system) focusing solar energy on boilers located on centralized power towers. The applicant will develop the Mitigated Ivanpah 3 Alternative as three power plants in separate and sequential phases that are designed to generate a total of 370 MW of electricity. Ivanpah 1 will have an electrical generation capacity of 120 MW, and Ivanpah 2 and 3 will have a capacity of 125 MW each. The acreage associated with Ivanpah Unit 3 will be reduced by moving the northern boundary of the ROW grant approximately 1,900 feet south of its location in the proposed action, resulting in a reduction of 433 acres of disturbance in that area, as well as a reduction of 433 acres in the total overall ROW grant. The Mitigated Ivanpah 3 Alternative will require approximately 40,000 fewer heliostats than the proposed project, or a total of 173,500. The reduction will be reached by not installing heliostats in the 433 acre northern portion of Ivanpah Unit 3.

Because it involves four fewer power tower receivers and 40,000 fewer heliostats, the Mitigated Ivanpah 3 Alternative will require a smaller amount of acreage (109 fewer

acres) within the CLA for construction purposes compared to the Proposed Action. However, this alternative will use most of this acreage for a Rare Plant Transplantation Area (approximately 7 acres) and a Succulent Nursery Area (59 acres). Overall, both alternatives will require the same 377 acres designated in the ROW grant for the CLA (BSE 2010a).

Modified I-15 Alternative – The Modified I-15 Alternative would use the same technology and configuration of components as the Mitigated Ivanpah 3 Alternative, but would seek to further reduce impacts to biological resources by placing Ivanpah Unit 3 in an area which is reported to have a lower density of those resources. The Modified I-15 Alternative, which involves a reconfiguration of Ivanpah Unit 3 in a location closer to Interstate 15, would reduce the acreage associated with Ivanpah Unit 3, and in the overall ROW grant, by 433 acres and would require approximately 40,000 fewer heliostats than the proposed project, or a total of 173,500. The number and location of power towers in Ivanpah Unit 3 would be modified from that in the proposed project. The proposed project includes five separate power towers within Ivanpah Unit 3. In the Modified I-15 Alternative, the number of power towers would be reduced to one.

Because it involves four fewer power tower receivers and 40,000 fewer heliostats, the Modified I-15 Alternative would require a smaller amount of acreage (109 fewer acres) within the CLA for construction purposes. However, the alternative would use most of this acreage for a Rare Plant Transplantation Area (approximately 7 acres) and a Succulent Nursery Area (59 acres). Overall, both alternatives would require the same 377 acres designated in the ROW grant for the CLA (BSE 2010a).

No Action Alternative – The No Action alternative under NEPA defines the scenario that would exist if the project were not constructed. Under NEPA, the “no action” alternative is used as a benchmark of existing conditions by which the public and decision makers can compare the environmental effects of the proposed action and the alternatives. If the No Action alternative were selected, the construction and operational impacts of the ISEGS project would not occur. There would be no grading of the site, no loss or disturbance of approximately 4,000 acres of desert habitat, and no installation of extensive power generation and transmission equipment. The No Action alternative would also eliminate the proposed project’s contributions to cumulative impacts in the Ivanpah Valley and in the Mojave Desert as a whole.

1.1 Alternatives not Fully Analyzed

In addition to the four alternatives that were fully analyzed in the Final EIS, 21 additional alternatives to the ISEGS project were developed and evaluated in the Final EIS. These alternatives include seven additional alternative site locations, a range of different solar and renewable technologies, generation technologies using different

fuels, and conservation/demand-side management. The alternatives that were considered, but eliminated from detailed analysis in the Final EIS are listed in Table 4-1.

**Table 4-1.
Alternatives Considered by BLM, but Eliminated from Detailed Analysis**

Site Alternatives

- Siberia East alternative
- Broadwell Lake alternative
- Private Land alternative
- Ivanpah Site A alternative
- Ivanpah Site C alternative
- West of Clark Mountain alternative
- Ivanpah Playa alternative

Other Renewable Alternatives

- Wind energy
- Geothermal energy
- Biomass energy
- Tidal energy
- Wave energy

Alternative Methods of Generating or Conserving Energy

- Natural Gas Generation
- Coal Generation
- Nuclear Energy
- Conservation and Demand Side Management

Renewable Solar Alternatives

- Parabolic Trough Technology
- Stirling Dish Technology
- Linear Fresnel Technology
- Solar PV Technology
- Distributed Solar Technology

Alternative Project Implementation

- Phased Approval alternative

4.2 Agency Preferred Alternative

After the release of the Draft EIS for public review in November 2009, the BLM continued to coordinate and consult regarding possible refinements to avoid sensitive resources on the ISEGS project site. As a result, two additional project alternatives that could avoid or reduce impacts were developed by the applicant, and were analyzed by the BLM in the Supplemental Draft EIS. These alternatives included the Mitigated

Ivanpah 3 Alternative and the Modified I-15 Alternative. These alternatives included modification of the project boundaries in order to avoid sensitive resources, a reduction in overall project acreage from 4,073 acres to 3471.36 acres, a reduction in the number of heliostats, and a resulting reduction in the power output from 400 MW in the proposed project to 370 MW in each of the alternatives. Following analysis and comparison of the proposed project, Mitigated Ivanpah 3, and Modified I-15 Alternatives in the Supplemental Draft and Final EISs, the 370 MW Mitigated Ivanpah 3 Alternative has been identified by the BLM as the Environmentally Preferred Alternative.

5. Agency and Public Involvement

5.1 Scoping

BLM solicited interested members of the public and agencies through the NEPA scoping process. BLM published a Notice of Intent to develop the EIS and amend the CDCA Plan in the Federal Register (Vol. 72, No. 214, page 62671) on November 6, 2007. The initial public scoping meeting was held on January 4, 2008, and coincided with the Informational Hearing held by the CEC. On January 9, 2009, BLM published a notice of an extension of the public scoping period and an additional joint public scoping meeting was held on January 25, 2008.

Following the scoping period, the CEC and BLM held additional joint Issue Resolution workshops which were announced and made available to the public. These workshops were held on June 23, 2008 in Primm, NV and on July 31 and December 15, 2009 in Sacramento, CA. The CEC continued to accept and consider public comments and granted petitions to intervene to eight interested groups including Defenders of Wildlife, Sierra Club, Basin and Range Watch, and Center for Biological Diversity (June 2, 2009), California Native Plant Society, Western Watersheds, CURE, and San Bernardino County. Although not officially part of BLM's NEPA process, BLM's NEPA analysis was supported by information received through these activities.

The BLM public participation process included soliciting comments regarding the scope of the analysis from other government agencies, the public, and non-governmental organizations.

5.2 Draft EIS Public Comment Period

The Notice of Availability of the DEIS was published on November 10, 2009; the 90-day public review and comment period ended on February 11, 2010. During the public

comment period, a variety of activities occurred in which BLM received additional information regarding the proposed project and potential alternatives, impacts, and mitigation measures. These activities included:

- Receipt of comments from the public, and other local, State, and federal agencies during the public comment period;
- Public testimony by CEC staff and consultants, BrightSource (Solar Partners) staff and consultants, and intervenors associated with the CEC certification process for ISEGS;
- Workshops, involving BLM staff and consultants as well as the above groups, to consider and evaluate impact analyses and mitigation approaches; and
- Submittal of additional technical reports, project design information, impact analyses, and applicant-proposed mitigation measures by Solar Partners.

5.3 Supplemental Draft EIS Public Comment Period

After publication of the DEIS, additional information regarding two of the alternatives (the Reduced Acreage Alternative and the I-15 Alternative) was obtained by BLM through the CEC public hearing and BLM public comment processes. Based on the receipt of these additional data, BLM concluded that the rationale for eliminating the Reduced Acreage and I-15 Alternatives in the DEIS was insufficient, and that these two alternatives merited more detailed evaluation in a Supplemental DEIS (SDEIS). The Notice of the Availability of the SDEIS was published on April 16, 2010; the 45-day public review and comment period ended on June 1, 2010.

Solar Partners' Application for Certification to the CEC the Energy Commission's PSA, and the joint BLM/CEC FSA/DEIS are all publicly available on the Energy Commission website at <http://www.energy.ca.gov/sitingcases/ivanpah/index.html>.

5.4 Final EIS Public Comment Period

The U.S. Environmental Protection Agency's (EPA's) NOA of the FEIS was issued on August 6, 2010. Release of the FEIS initiated an additional 30-day comment period, which closed on September 7, 2010. The FEIS was distributed to a variety of federal, State, and local government agencies, elected officials, environmental organizations, Native American tribes, and other interested parties for review. The comments received on the Final EIS and BLM's responses to those comments are summarized in Appendix 1. BLM has considered all comments received on the FEIS in the development of this ROD. In addition, the BLM will:

- Distribute a news release about the ROD in the local and regional media;
- Send the ROD to all those on the distribution list; and
- Make the ROD available on the BLM website and to all who request a copy.

5.5 Protest Period

The EPA Notice of Availability of the Final EIS was issued on August 6, 2010. Release of the Final EIS initiated the 30-day protest period, which closed on September 7, 2010. During that period, any person who participated in the planning process and believed they would be adversely affected by the CDCA Plan amendment had the opportunity to protest the proposed amendment to the Director of the BLM. Six formal protest letters were filed with the BLM. Protest issues included:

- range of alternatives
- special status species, including desert tortoise and section 7 consultation
- wild horses and burros
- baseline data adequacy
- response to DEIS and FEIS comments
- multiple use mandate of FLPMA
- consistency with CDCA multiple use class "L"
- consistency with the CDCA plan
- adequacy of resource inventory
- cultural resources/tribal consultation
- groundwater.

All protesting parties received response letters from the BLM Director conveying the Director's decision on the concerns raised in their protests. The responses concluded that BLM followed the applicable laws, regulations, and policies and considered all relevant resource information and public input in developing the CDCA Plan Amendment/FEIS. Therefore, all protests were denied and no changes were made to the proposed CDCA Plan Amendment decision as a result of the protests. As a point of clarification, translocation is not addressed in BLM Manual 1745 – Introduction, Transplant, Augmentation and Re-Establishment of Fish, Wildlife and Plants (1992), as suggested on pages A.2-34 and 35 in the Final EIS (response to comment). Detailed information on protests may be found on the BLM Washington Office website at:

http://www.blm.gov/wo/st/en/prog/planning/protest_resolution.html

5.6 Summary of Consultation with Other Agencies and Entities

The BLM and the project applicant have been consulting and coordinating with public agencies that may be requested to take action on the ISEGS project and other interested parties as part of one or more of the following project phases: planning, scoping, public review of the Draft EIS, public review of the SDEIS, and/or public review of the Final EIS. Those consultation and coordination activities are addressed throughout this ROD and are summarized in the following sections.

5.6.1 Governor's Consistency Review

The proposed CDCA Plan Amendment was reviewed by the Governor's Office of Planning and Research following the issuance of the Final EIS and was found to be consistent with State and local plans.

5.6.2 U.S. Fish and Wildlife Service Consultation

The U.S. Fish and Wildlife Service (USFWS) has jurisdiction to protect threatened and endangered species under the Endangered Species Act (ESA). Formal consultation with the USFWS under Section 7 of the ESA is required for any federal action that may adversely affect a federally-listed species. The desert tortoise (*Gopherus agassizii*), which occurs in the proposed project area, is a federally-listed threatened species, and therefore, formal consultation with the USFWS is required. This consultation was initiated through the preparation and submittal of a Biological Assessment (BA) which describes the proposed project to the USFWS. Following review of the BA, the USFWS issued its Biological Opinion (BO), titled "Biological Opinion on BrightSource Energy's Ivanpah Solar Electric Generating System Project, San Bernardino County, California [CACA-48668, 49502, 49503, 49504]", concluding that the action would not jeopardize the continued existence of the desert tortoise. The BO also includes terms and conditions that will be followed by the applicant to reduce any anticipated adverse impacts.

5.6.3 National Historic Preservation Act Consultation

A key part of a cultural resources analysis under NEPA and Section 106 of the National Historic Preservation Act of 1966 (NHPA) is to determine which of the cultural resources that a proposed or alternative action may affect are important or historically significant.

In accordance with 36 CFR Part 800.14(b), the BLM has prepared a Programmatic Agreement (PA) in consultation with the Advisory Council on Historic Preservation (ACHP), the State Historic Preservation Officer (SHPO), interested tribes (including tribal governments as part of government-to-government consultation), and other interested parties. The PA will govern the continued identification and evaluation of historic properties (eligible for the National Register) and historical resources (eligible for the California Register of Historic Places), as well as the resolution of any effects that may result from the ISEGS project. Historic properties and historical resources are significant prehistoric and historic cultural resources as determined by the BLM. The executed PA is provided in Appendix 3, Programmatic Agreement.

5.6.4 Native American Tribal Consultation

The BLM has consulted with the Native American groups that may have an interest in the project area. The BLM is conducting the ongoing Native American consultation for the proposed project. The results of that consultation, to date, follow:

CH2M HILL, the consultant to the applicant, contacted the California Native American Heritage Commission (NAHC) on June 27, 2007 to request that the NAHC search its Sacred Lands File to determine whether there are any reported Native American cultural resources in the project area of analysis, and to request that the NAHC provide a list of Native American contacts that may have knowledge of cultural resources in that area. On June 29, 2007, CH2M HILL, on the basis of the response from the NAHC, sent out letters to initiate correspondence with the Native American groups that the NAHC thought may have an interest in the project area:

- Cahuilla Band of Mission Indians of the Cahuilla Reservation
- Ramona Band of Cahuilla Mission Indians of California
- San Manuel Band of Serrano Mission Indians of the San Manuel Reservation
- Chemehuevi Indian Tribe of the Chemehuevi Reservation
- AhaMaKav Cultural Society, Fort Mojave Indian Tribe
- Morongo Band of Cahuilla Mission Indians of the Morongo Reservation
- Fort Mojave Indian Tribe of Arizona, California, and Nevada
- Serrano Nation of Indians
- San Fernando Band of Mission Indians

The BLM has also sought to engage Native American groups beyond those on the NAHC contact list that may have an interest in the lands in the project area of analysis and with which BLM maintains ongoing relationships. BLM Needles Field Office staff sent out letters initiating consultation with potentially affected tribes on October 4, 2007. On December 6, 2007, BLM submitted additional letters to the balance of the groups that the NAHC thought may have an interest in the project area. The purpose of the BLM letters was to initiate formal federal contact with Native American groups about the proposed project and to initiate government-to-government consultation with those groups that are federally recognized. BLM Needles Field Office staff sent out a subsequent letter on March 5, 2009 to the recipients of its initial letter to inform them of the discovery of ISEGS-01, an archaeological site to the east of the project site (see “May 23, 2008 Pedestrian Reconnaissance Survey of Project Area Inselbergs” and “Investigation to Evaluate Archaeological Site ISEGS-01” subsections, below), to solicit input on and concerns about the new archaeological site, request information on any cultural or religious values that might be affected by the proposed project, and to inform them that the results of additional archaeological survey on the hills that flank the project site will be made available to them on request. On December 16, 2009, BLM submitted the Draft EIS to all of the Tribes. On April 16, 2010, BLM submitted the Supplemental Draft EIS to potentially affected Tribes.

The June 29, 2007 response of the NAHC to the above request says that the Sacred Lands File did not indicate any Native American cultural resources in the immediate project area. CH2M HILL mailed and emailed letters to each of the contacts on the June 29 list asking them to please contact the consultant if they had any knowledge of traditional cultural properties or areas of traditional cultural value in the project area, or if they had any concerns about the proposed project. As of August 13, 2007, the month of the filing of the AFC for the proposed project, CH2M HILL had received no responses to the letters sent out on June 29.

BLM Needles Field Office staff has had little response from any of the Native American Tribes to any correspondence. A summary of BLM’s contacts with Native American Groups includes:

- Colorado River Indian Tribes of the Colorado River Indian Reservation
- Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony
- Pahrump Paiute Tribe

BLM Native American consultation efforts are ongoing. BLM was contacted by the Fort Mojave Indian Tribe on October 21, 2009. This contact stated that the Chemehuevi used to live in and use the mountains surrounding the Ivanpah Valley for hunting and collecting, that the spring was named “Ivanpah” meaning ‘good water’ in Chemehuevi (not near the project area) and that he wanted to be included on future mailings.

The Chairman of the San Fernando Band of Mission Indians contacted the BLM by phone. His call was returned on May 4, 2010. He wanted to know if the project lands had been surveyed and if any prehistoric or Tribal sites had been found. He was assured that only historic period sites had been identified to date and that he will be informed if any were identified. His concern was that prehistoric sites indicating tribal activity might be destroyed.

On May 13, 2010, the Colorado River Indian Tribes identified Tribal concerns over the use of water for the project as water is an important resource to the Tribes.

5.6.5 State of California Coordination

5.6.5.1 California Energy Commission

The Draft EIS for this proposed project was developed as a joint environmental review document, the FSA/DEIS, under an MOU between the California Energy Commission and BLM California State Office. The BLM and the Energy Commission prepared a joint Final Staff Assessment/Draft EIS (FSA/DEIS) for the applicant-proposed 400 MW project. The FSA/DEIS was circulated for agency and public review on November 10, 2009, and the comments received on that report and responses to those comments were provided in Appendix A-1 of the FEIS, Summary of Public and Agency Comments on Draft Environmental Impact Statement (DEIS) and Agency Responses. Subsequent to the publication of the joint FSA/DEIS, the BLM and Energy Commission processes were conducted separately. The Energy Commission continued its certification process through the conduct of hearings, development of an Addendum to their FSA, and through their final certification in September 2010. Separately, BLM issued a Supplemental Draft EIS, which analyzed additional alternatives to the applicant's proposed project, on April 16, 2010, and then issued a Final EIS on August 6, 2010. Although the environmental review documents developed by the two agencies were stand-alone documents specific to those agencies' environmental review processes, BLM and the Energy Commission each continued to provide opportunity for the other agency to review and provide technical input into their process.

5.6.5.2 Lahontan Regional Water Quality Control Board

The Lahontan Regional Water Quality Control Board (RWQCB) has the authority to protect both surface water and groundwater resources at the proposed project location. Throughout the EIS process, the Energy Commission, BLM, and the applicant have invited the RWQCB to participate in public scoping and workshops, and have provided

information to assist BLM in evaluating the potential impacts and permitting requirements of the proposed project. The RWQCB has responded by providing comments that have been evaluated and incorporated into the EIS analysis. The RWQCB has also made a determination that the proposed project will impact waters of the state, and has specified conditions to satisfy requirements of a dredge and fill permit/waste discharge requirements. These requirements have been included as mitigation measures.

5.6.5.3 California Department of Fish and Game

The California Department of Fish and Game (CDFG) has the authority to protect water resources of the state through regulation of modifications to streambeds, under Section 1602 of the Fish and Game Code. The Energy Commission, BLM, and the applicant have provided information to CDFG to assist in their determination of the impacts to streambeds, and identification of permit and mitigation requirements. The applicant filed a Streambed Alteration Agreement with CDFG on June 2, 2009. The requirements of the Streambed Alteration Agreement will be included as a recommended Mitigation Measure. CDFG also has the authority to regulate potential impacts to species that are protected under the California Endangered Species Act (CESA). On May 22, 2009, the applicant filed an application for authorization for incidental take of the desert tortoise under Section 2081(b) of the CESA. The requirements of the Incidental Take Permit have been included as a recommended Mitigation Measure.

5.6.5.4 Mojave Desert Air Quality Management District

The Mojave Desert Air Quality Management District (MDAQMD) has been designated as the agency responsible for permitting and compliance associated with the Clean Air Act. The MDAQMD issued the Preliminary Determination of Compliance (PDOC) for the ISEGS project on December 23, 2008, and the Final Determination of Compliance (FDOC), second revision version Rev. B, on July 15, 2009. On April 15, 2010, the District issued Revision C of the FDOC. The MDAQMD issued this revision to the FDOC primarily to reflect equipment changes associated with the applicant's Mitigated Ivanpah 3 proposal that includes elimination of one emergency generator and reduction in the size and usage of the Ivanpah 3 boiler to match those of Ivanpah 1 and 2. Compliance with all District rules and regulations was demonstrated to the District's satisfaction in the DOC. The District's FDOC conditions are presented in the list of mitigation measures AQ-1 through AQ-31, in Section 4.1.4 of the Final EIS.

5.6.6 Other

The U.S. Army Corps of Engineers (USACE) has jurisdiction to protect water quality and wetland resources under Section 404 of the Clean Water Act. Under that authority, USACE reviews proposed projects to determine whether they may impact such resources, and/or be subject to a Section 404 permit. Throughout the Draft EIS process, the Energy Commission, BLM, and the applicant provided information to the USACE to assist them in making a determination regarding their jurisdiction and need for a Section 404 permit. The USACE rendered a final opinion on May 28, 2009 concluding that the project does not affect waters of the U.S. and thus, does not require such a permit.

The National Park Service manages the Mojave National Preserve (MNP), which is located near the proposed project area. Because of the proximity of the MNP, the Park Service has been invited to participate in scoping meetings and public workshops, and was provided the opportunity to review and provide comment on the Preliminary Staff Assessment (PSA) and Draft EIS.

On March 18, 2008, the BLM California Desert District entered into an MOU with the County of San Bernardino to coordinate environmental reviews for renewable energy projects on public land within the County. Under this MOU, BLM invites the County to become a cooperating agency for EISs, and provides opportunities for County staff to review and participate in technical discussions and analyses. For the proposed project, the County has elected to become a cooperating agency. BLM continues to provide the County with project-related documentation for their review and evaluation, and the County has provided guidance for protection of groundwater resources.

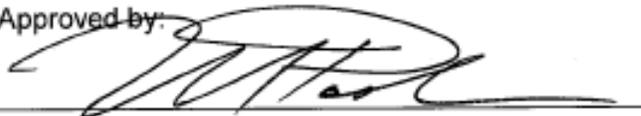
6. Final Agency Action

6.1 Land Use Plan Amendment

It is the decision of the Bureau of Land Management (BLM) to approve the Proposed Plan Amendment to the California Desert Conservation Area Plan (CDCA Plan, 1980, as amended) to allow a solar energy generation facility on the ISEGS site. The Proposed Plan Amendment and related Environmental Impact Statement (EIS) was published on July 28, 2010 in the Federal Register. I have responded to and resolved six protests on the Proposed Plan Amendment and, in accordance with BLM regulations, 43 CFR 1610.5-2, my decision on the protests is the final decision of the Department of the Interior (DOI).

Based on the recommendation of the State Director, California, I hereby approve the Proposed Plan Amendment. This approval is effective on the date this Record of Decision is signed.

Approved by:



Mike Pool
Deputy Director
Bureau of Land Management

OCT 07 2010

Date

6.2 Right-of-Way Authorization and Route Designation Decision

It is my decision to approve four solar energy right-of-way leases/grants to Solar Partners I, Solar Partners II, and Solar Partners VIII, LLC, subject to the terms, conditions, stipulations, Plan of Development, and environmental protection measures developed by the Department of the Interior and reflected in this Record of Decision. It is my further decision to close portions of three open routes within the solar energy power facility site as described in this Record of Decision and Final EIS. These decisions are effective on the date this Record of Decision is signed.

Approved by:



Mike Pool
Deputy Director
Bureau of Land Management

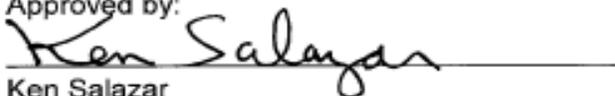
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6.3 Secretarial Approval

I hereby approve these decisions. My approval of these decisions constitutes the final decision of the Department of the Interior and, in accordance with the regulations at 43 CFR 4.410(a)(3), is not subject to appeal under Departmental regulations at 43 CFR Part 4. Any challenge to these decisions, including the BLM Authorized Officer's issuance of the right-of-way as approved by this decision, must be brought in federal district court.

Approved by:



Ken Salazar
Secretary
U.S. Department of the Interior

OCT 07 2010

Date

7. Appendices

7.1 FEIS Comment Responses

7.2 Biological Opinion

7.3 Programmatic Agreement

7.4 Compliance Monitoring Plan

7.5 Location Map

7.6 Mitigation Measures

