Eagle Crest Energy Gen-Tie and Water Pipeline

FINDING OF NO SIGNIFICANT IMPACT

March 2017

U.S. Bureau of Land Management
California Desert District
Palm Springs- South Coast Field Office Field
1201 Bird Center Drive
Palm Springs, CA 92262
FINDING OF NO SIGNIFICANT IMPACT (FONSI)

This Finding of No New Significant Impact (FONSI) addresses the issuance of a right-of-way (ROW) grant and associated California Desert Conservation Area (CDCA), as amended, Plan Amendment (Alternative A) under Title V of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C., Section 1761 and Bureau of Land Management (BLM) ROW regulations, 43 CFR, Sections 2800 et seq., for the Eagle Crest Energy gen-tie line, water pipeline and components of the pumped storage project on public lands under the jurisdiction of the BLM Palm Springs-South Coast Field Office (Proposed Action). The Proposed Action is part of the larger Eagle Mountain Pumped Storage Hydroelectric Project, Federal Energy Regulatory Project (FERC) No. 13123-002, licensed by FERC under the Federal Power Act (FPA) (FERC Project). Pursuant to the FPA, Section 24, federal lands were initially withdrawn for purposes of the FERC Project in 1991. Since that time, Eagle Crest formally applied for, and FERC has granted, an Original License (License) to Eagle Crest Energy for the FERC Project, See 147 FERC ¶ 61,220 (June 19, 2014) (Order Issuing Original License); see also 153 FERC ¶ 61,058 (Oct. 15, 2015 (Order Denying Rehearing and Denying Stay).

Eagle Crest Energy has applied to the BLM for a ROW to construct, operate, and maintain part of the FERC Project, including gen-tie, water pipeline and portions of the Central Project Area, on BLM-administered land. In order to grant the ROW, BLM proposed to amend the CDCA Plan, as amended by the Desert Renewable Energy Project (DRECP) in 2016. The BLM prepared an Environmental Assessment (EA), dated October 2016, that analyzed the effects of the proposed plan amendment and issuance of a ROW grant for the use of BLM-administered land for the FERC Project, which is incorporated by reference herein (40 CFR 1508.13). The EA tiers to a Final Environmental Impact Statement (2012) (FERC FEIS) prepared by FERC for the 2014 issuance of a License for the FERC Project. The FERC FEIS analyzed the effects of the entire Eagle Mountain Pumped Storage Project, including the portions of the FERC Project on BLM land and the EA incorporates the entirety of the information in the FERC FEIS by reference. Portions of the ROW for the gen-tie and water pipeline fall outside the CDCA designated utility corridor, and subsequent to completion of the FERC licensing process, were determined by BLM to require a CDCA Land Use Plan Amendment (LUPA). Therefore, BLM’s EA addresses the CDCA Plan Amendment, as amended by the DRECP. The Plan Amendment makes the FERC Project consistent with the CDCA Plan and facilitates issuance of the ROW. The Plan Amendment is project-specific and does not facilitate any BLM action other than issuance of the ROW for the FERC Project. The effects of the Plan Amendment are no
different than those associated with granting the ROW, which were disclosed and analyzed in the FERC FEIS. Together, the LUPA and ROW constitute BLM's “Proposed Action”.

BLM prepared the EA to analyze any environmental effects associated with BLM’s issuance of the proposed ROW and Plan Amendment. The EA tiers to the broader FERC FEIS and FERC’s evaluation of the FERC Project as a whole, including those aspects outside of BLM’s jurisdiction, but evaluates new information related to the FERC Project and proposed ROW and Plan Amendment. CEQ regulations encourage agencies to “tier” to a previous EIS to “eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision…” (40 CFR, Section 1502.20). In addition to the FERC FEIS and preparation of an EA pursuant to the National Environmental Policy Act of 1969 (NEPA), the BLM has analyzed the environmental effects from the mandatory License conditions and the FERC compliance with Endangered Species Act (ESA), Section 7 process, and National Historic Preservation Act (NHPA), Section 106 consultation processes. FERC consulted with the U.S. Fish and Wildlife Service (USFWS) in an ESA, Section 7 formal consultation process for the federally-listed desert tortoise for the entire FERC Project, including those portions of the FERC Project on BLM land. On April 10, 2012, USFWS issued a Biological Opinion with “reasonable and prudent measures” and “terms and conditions” to minimize incidental take of the desert tortoise. These terms and conditions were made a FERC condition in the License. FERC also completed a NHPA, Section 106 process and consulted with interested tribes and the California State Historic Preservation Office (SHPO) on the entire FERC Project, including those portions of the FERC Project on BLM land. FERC approved a Historic Properties Management Plan (HPMP) and entered into a Programmatic Agreement with SHPO to implement the HPMP.

BLM has also undertaken additional data collection and procedures in compliance with its independent requirements under federal statutes and regulations:

- NHPA Section 106 consultation with SHPO and interested tribes (2015);
- ESA Section 7 informal consultation with FWS on the FERC Project USFWS 2012 Biological Opinion including a site tour of all FERC Project lands and supplemental biological surveys of the desert tortoise in the Central Project Area (2016);
- Updated assessment of cumulative groundwater effects in Chuckwalla Basin and revised water balance calculations based on changes in water use from the date of the FERC FEIS (2016).

The data and new information developed during compliance with NHPA and ESA and preparation of the updated groundwater assessment have been incorporated in the EA.

BLM has also incorporated new information on effects from the BLM’s DRECP Final Environmental Impact Statement (2015) and Land Use Plan Amendment (2016) (DRECP
FEIS/LUPA) (see EA at, Section 1.7.1, App. A, Table 4-6 and Table 1-3 (2016), the National Park Service’s (NPS) Joshua Tree National Park “Finding of No Significant Impact, Eagle Mountain Boundary Study Including Possible Land Withdrawal Environmental Assessment” (Dec. 12, 2016) (NPS FONSI), and considered the related action of the U.S. Department of the Interior (DOI) to segregate for possible withdrawal 22,000 acres of federal land outside the Proposed Action SF-299 boundary. DOI, “Notice of Proposed Withdrawal and Notice of Public Meeting: California”, (81 Fed. Reg. 81,798; Nov. 18, 2016); (Withdrawal Notice). Each of these documents (DRECP, NPS FONSI, and Withdrawal Notice) recognizes the FERC Project/License as a Federal Land Policy and Management Act of 1976 (FLPMA) “valid existing right” to which the plan, the boundary study, and the proposed withdrawal are “subject to.” BLM, in this EA, similarly recognizes the License as a valid existing right. FLPMA Section 701(h), Pub. L. 94-570 (1976); 43 CFR, Section 1610.5-3 and BLM Land Use Planning Handbook, H-1601 at p. 19, App. C at p. 28.

BLM may prepare an EA for an action that has no significant impacts, or for actions that are already addressed in an existing environmental document, some significant impacts “if the EA is tiered to a broader EIS which fully analyzed those significant impacts (see section 5.2.2, Tiering).” BLM NEPA Handbook, H-1790-1, at 69. In such cases, the BLM “must document in the FONSI a determination that the potentially significant effects have already been analyzed, and no other effects reach significance. Only significant effects that have not been analyzed in an existing EIS will trigger the need for a new EIS.” Id. Based on the analysis of potential environmental impacts contained in the attached EA, I have determined that the Proposed Action, Alternative A, is consistent with the level of impacts previously identified and analyzed in the FERC FEIS. All potentially significant effects of the proposed action have already been analyzed in the FERC FEIS, and no new significant impacts were disclosed during completion of the environmental analysis for this EA. As such, no EIS or supplementation to the FERC EIS is required.

I have considered the Council on Environmental Quality’s criteria for significance (40 CFR 1508.27; see also, BLM, National Environmental Policy Act Handbook, (January 2008), H-1790-1, Section 7.3), with regard to the “context” and “intensity” of impacts. My finding is based on the consideration of the direct, indirect, and cumulative impacts of the Proposed Action, and the context and intensity of those impacts as described below.

**Context**

Pursuant to NEPA, “context” means that consideration of “the significance of an action in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality.” 40 CFR Section 1508.27(a). Significance varies with the setting of the proposed action. CEQ regulations recommend, “…in the case of a site-specific action,
significance would usually depend on the effects in the locale rather than in the world as a whole.” 40 CFR, Section 1508.27. Both short and long term effects are relevant.

Each context consideration is addressed in both the FERC FEIS and the BLM EA. The Proposed Action is site-specific. Here, the context of the Proposed ROW identifies no significant environmental impact considering the following: (1) The Proposed ROW will be located on FPA-withdrawn land adjacent to an existing transmission line right-of-way, on land already disturbed by past activities (including the existing transmission line, towers, and access roads), and will not result in substantial amounts of new areas of disturbance. The FERC Project is sited on a previously disturbed industrial iron ore mine with four large (1- to 2-mile-long) pits, waste rock piles, a railroad and townsit; (2) The Proposed ROW is site-specific directly involving approximately 795.5 acres of BLM-administered lands for temporary use and 280.5 acres of BLM-administered lands for long term use (for the gen-tie line, water pipeline and other specific components of the pumped storage project on BLM administered lands) that have local and regional importance; (3) The Proposed land use plan amendment is site-specific, and address the segments of the gen-tie transmission corridor and water pipeline corridor that lie outside of the existing designated utility corridor. The context of the EA analysis was determined to be at local and regional scales focused on eastern Riverside County, California. The effects of the action are not applicable on a statewide or national scale because no statewide or nationally significant values were implicated.

**Intensity**

The term “intensity” refers to the severity of a proposed action’s impact on the human environment (40 CFR Section 1508.27(b)). In determining an impact’s intensity, NEPA’s implementing regulations direct federal agencies to consider the following 10 factors, each of which is discussed below in relation to the Proposed Action (Id.).

1. **Impacts that may be both beneficial and adverse.**

   While consideration of a project’s intensity must include analysis of both beneficial and adverse effects (direct, indirect, and/or cumulative), only a “significant adverse effect” triggers the need to prepare an EIS (40 CFR, Section 1508.27(b)(l)); BLM NEPA Handbook, Section 7.3). The potential beneficial effects and adverse impacts of Alternative A are discussed briefly in the following sections.

   **Beneficial Impacts:** As described in the EA, the Proposed ROW (gen-tie, water pipeline and components of the pumped storage project on federal lands) would allow the FERC Project to provide energy, capacity and ancillary services to the California-South sub-region of the statewide electrical grid system in both the short and long
term. See also FERC FEIS, Section 4.1. The FERC Project is capable of providing unique benefits that support the integration of new renewable energy resources to meet California’s Renewable Energy Portfolio Standard (RPS) goals and contributes to attainment of state goals for reduction of emissions of greenhouse gases. EA, Section 1.2.3. In the License, FERC also considered the public interest factors and found, “The project will help stabilize the variable output of nearby existing and proposed wind and solar projects that can create an imbalance in the stability of the electric grid if sufficient facilities are not available to balance the system.” FERC License, Section 167. The FERC FEIS also found “[p]roject construction would have a beneficial effect on local employment and income.” FERC FEIS, Section 3.3.7.2 p. 190.

**Adverse Impacts:** The Proposed Action (LUPA and ROW) would result in adverse impacts that are within the type and intensity of impacts analyzed in the FERC FEIS as described in detail in the EA in Chapter 4. There are no new significant unmitigated environmental impacts resulting from the Proposed Action.

Examples of potential adverse impacts of the Proposed Action include the following:

- Temporary increases in particulate matter during construction (EA, Section 4.1.1).
- Short-term increase in traffic which would be temporary in nature – 2-4 years.
- Potential impacts from hazardous materials (dust palliatives) and herbicide use. These impacts would be minimized with mitigation measures and BLM Standard Operating Procedures (SOP) for herbicide use.
- While the EA included additional analysis of water quality/quantity impacts, the Proposed Action itself would not directly result in these impacts. The FERC Project will use water to fill the lower reservoir from three private wells. The impact of the FERC Project’s use of water both from a water quality and water quantity perspective was analyzed by FERC in the FEIS. BLM addressed water quality/quantity in this EA. EA Section 4.1.5:

  *Over the life of the Project, initial pumping, along with existing water uses (e.g., agricultural and domestic water supply) would exceed recharge of the [Chuckwalla] basin*

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1 Water Quantity FERC FEIS, Section 3.3.2.1 pp. 52-59 and Section 3.3.2.2 pp. 60-64, 71-79 Section 5.2 pp. 249-250, 260-261, Section 5.3 and water quality FERC FEIS Section 3.3.2.1 pp. 48-52 and Section 3.3.2.2 pp. 65-70, Section 5.2 pp. 249-250, 256, 260-261.

2 Surface water quality EA, Sections 4.1.5.1 and 4.1.5.3, groundwater quantity EA Section 4.1.5.2 and groundwater quality EA Section 4.1.5.4.
by about 4,600 acre-feet per year for the first four years (FERC FEIS)...Following this initial period, recharge would exceed Project pumping and existing water uses by about 1,700 acre-feet per year because pumping would then be reduced to only provide make-up water for evaporative losses (FERC FEIS, p. 96)...Project withdrawals over the 50-year License period would total less than 1 percent of total recoverable water in the Chuckwalla groundwater basin [not accounting for any natural recharge] (FERC FEIS p. 98) EA, Section 4.1.5.2.

The mitigation (e.g., site investigation for acid producing potential, reverse osmosis water treatment system, reservoir liners for seepage control) and monitoring measures imposed in the License are designed to minimize these impacts (EA, Sections 4.1.5.2 and 4.1.5.4.).

- Impacts to the habitat of the state and federally-listed the desert tortoise from the Proposed Action (EA, Section 4.1.2.2.). Tortoise densities are low in this area as confirmed by surveys over 4 years. EA, Section 3.2.2. Compliance with the USFWS 2012 Biological Opinion (BO), terms and conditions incorporated into the License as conditions (including a Predator Control Plan and transmission line requirements to reduce raven perching) will help to minimize these impacts. EA, Section 4.1.2.2. The BLM’s informal consultation with USFWS resulted in shifting the reverse osmosis system brine ponds from desert tortoise habitat partially on federal land to a location entirely on previously disturbed fee land within the mine site. EA, Section 4.1.2.2. The USFWS 2012 BO requires replacement habitat to mitigate the Proposed Action’s impacts to desert tortoise habitat and BLM is requiring compensation habitat in conformity with the DRECP Chuckwalla Area of Critical Environmental Concern (ACEC) conservation management action. EA, Section 4.1.2.2. BLM will continue its ESA, Section 7 consultation as needed through Proposed Action implementation.

- Impacts to sensitive avian species are addressed through an Avian Protection Plan. EA, Section 4.1.2.4.

- Construction activities on the Central Project Area could create a temporary disturbance (noise and human presence) to the area’s Nelson’s bighorn sheep. EA, Section 4.1.2.3, pp. 95-96. The linear features (gen-tie and water pipeline) are not expected to have an impact on the bighorn sheep. The License-required Wildlife Protection Plan will minimize impacts from desert-tortoise fencing by keeping the height at 3 feet and lighting impacts by a required Night Skies Plan. The DRECP land designations and the segregation and proposed withdrawal of federal lands
will protect bighorn sheep habitat in the area surrounding the Proposed Action. EA, Section 6.3.1.

- Impacts to Joshua Tree National Park resources include visual (night skies), noise, recreation and ESA-listed (desert tortoise) and sensitive wildlife (bighorn sheep). These impacts are not significant given the following considerations. There is no public access from Joshua Tree National Park to the FERC Project area and visitation in the portion of Joshua Tree National Park adjacent to the FERC Project is very low. EA, Section 4.1.9. The operational mechanics of the FERC Project will be deep below ground, but there will be surface noise during the 2-4 years of construction. EA, Section 4.1.7. The distance to the boundary of Joshua Tree National Park (in an area lightly visited) is approximately 1.5 miles to the north and south, and 5 miles to the west, and the noise from construction at that distance is expected to be minimal. The FERC FEIS requires a Facility Lighting Design Night Sky Monitoring Plan and Visual Effects Protection Plan that will minimize impacts to the night sky at Joshua Tree National Park. EA, Section 4.1.10. The measures to minimize impacts to desert tortoise and bighorn sheep are discussed above. The pipeline is buried and the gen-tie, for much of its length follows an existing transmission line and is, in part, located in a CDCA-designated utility corridor and areas designated as VRM Class II and III. EA p. 31.

BLM concluded in its EA that there are no unmitigated significant impacts in BLM’s consideration of the Proposed Action.

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

BLM concluded in the EA that there would be no new public health and safety effects beyond those effects identified and analyzed in the FERC FEIS. Potential impacts to health and safety could occur during any phase of the Proposed Action. However, the Proposed Action has been designed to control public access to the site to prevent facility-related accidents, and incorporates plans that address potential public health and safety situations (such as to address spill response, fire management, health and safety, and emergency response, among others) to be included in the ROW grant.

Section 4.1.1: Air Quality and Climate Change; Sections 4.1.5.3 and 4.1.5.4: Surface Water Quality and Groundwater Quality; Section 4.1.7: Noise; and Section 4.1.10: Visual Resources, analyzed and disclosed potential health (e.g. Valley Fever (EA, Section 4.1.1)) and safety impacts and determined that there are no significant impacts under Alternative A related to these issues. During construction of the gen-tie
line and water pipeline, construction equipment and vehicles are expected to generate some dust or particulate matter but only at _de minimis_ levels. While it is possible that the _Coccidioides_ fungal spores could be present in the Proposed Action area and be made airborne during construction activity, dust palliatives are proposed for use with implementation of appropriate mitigation measures. Implementation of the mitigation measures described in the FERC FEIS and EA will minimize impacts related to the use of dust palliatives. The Proposed Action will use herbicides as part of an integrated weed management strategy. The use of herbicides will not result in adverse effects with the implementation of applicable BLM Standard Operating Procedures.

BLM concluded in its EA that there are no unmitigated adverse impacts of Alternative A.

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

According to the BLM NEPA Handbook, Section 7.3, “unique characteristics” are generally limited to those previously identified through a legislative, regulatory, or planning process. The Proposed Action gen-tie line corridor, pipeline and access road spur components are located within BLM lands and a significant portion of the linear ROW is in a CDCA-designated utility corridor, along an existing transmission line. The Proposed Action is not located within any special designation areas such as BLM National Conservation Lands or within prime farmland. The FERC Project and Central Project Area components on federal land are located about 1.5 miles from the boundary of Joshua Tree National Park. The FERC FEIS considered FERC Project impacts to Joshua Tree National Park (FERC FEIS, Section 3.3.5.1 pp. 131-136, 140, 145-149, 16, Section 5.2 p. 263-264). The Proposed Action will fall within a newly (2016) designated DRECP ACEC – Chuckwalla ACEC. The BLM EA thoroughly addresses the Proposed Action and the DRECP Chuckwalla ACEC and Conservation Management Actions (CMAs), (See EA, Section 1.7.1, App. A, Table 4-6 and Table 1-3 (2016). In the future, the FERC Project could be adjacent to additional NPS-administered land as the result of the Withdrawal Notice and NPS FONSI.

The FERC License, of which the Proposed Action is a component, is a valid existing right (VER). Pursuant to FLPMA, Section 701(h) and BLM regulations and guidance new planning decisions, including the DRECP (Chuckwalla ACEC), the NPS FONSI and Notice of Withdrawal, are “subject to” this VER. To the extent the DRECP Chuckwalla ACEC CMAs do not conflict with this VER, BLM has applied them. See EA, Section 1.7.1, App. A, Table 4-6 and Table 1-3 (2016).
Historic and cultural resources were addressed in the FERC Project FEIS (FEIS, Section 3.3.6 pp. 168-186, Section 5.2 p. 254), the FERC Project NHPA, Section 106 consultation and in the FERC/SHPO Historic Properties Management Plan (HPMP) and Programmatic Agreement for the FERC Project. BLM conducted a separate NHPA, Section 106 consultation for the Proposed Action. The two historic trash dumps that are within and adjacent to the gen-tie ROW will be protected from disturbance pursuant to the FERC/SHPO HPMP and Programmatic Agreement. Moreover, the mitigation measures, including those that address new discoveries, provided in the EA, would further reduce impacts to cultural resources. There are no wetlands or Waters of the U.S. under jurisdiction of the U.S. Army Corps of Engineers within the FERC Project limits. There would be no new effects to these considerations beyond those effects identified and analyzed in the FERC FEIS.

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

As BLM’s guidance notes, “there will always be some disagreement about the nature of the effects for land management actions…” BLM NEPA Handbook, Section 7.3. Rather “substantial dispute within the scientific community about the effect of the proposed action would indicate that the effects are likely to be highly controversial.” BLM NEPA Handbook, Section 7.3. The Proposed Action includes a ROW for a gen-tie line and water pipeline largely in an area that the CDCA has designated as a utility corridor and in an area that already contains an existing transmission line. The ROW alignment was selected by FERC after review of several alternatives to avoid impacts to desert tortoise and other resources. BLM independently reviewed the ROW alignment. The Proposed Action components of the FERC Project on federal land are located in a brownfield site that has been heavily disturbed by more than 35 years of industrial mining. The impacts of the Proposed Action have been analyzed in the FERC FEIS and, again, in this EA without substantial scientific dispute on the effects of the Proposed Action.

In the Proposed Action EA, BLM has also carefully examined the issue of impacts to the Chuckwalla Basin and Joshua Tree National Park from the FERC Project groundwater withdrawals. There is no evidence of a “substantial dispute” within the scientific community concerning the groundwater withdrawals. BLM conducted an updated water balance for this EA. BLM has acknowledged that the State Water Board is the expert and controlling governmental agency on groundwater use and conditions in the Chuckwalla Valley including the recharge rate in the Chuckwalla Basin. The recent NPS FONSI for Joshua Tree National Park also acknowledges that
the NPS concurs that springs in Joshua Tree National Park are fed by local groundwater sources, not connected to the Chuckwalla Basin (NPS, FONSI, p. 30) and that the NPS does not dispute the State Water Board’s technical hydrogeological recharge analysis of groundwater recharge [of 12,700 AFY] (NPS, FONSI, p. 59). The FERC License Articles 401, 402, 403, 404, 405 and 406 require a series of mitigation measures to address water quality and water quantity effects. There is no demonstration of a significant adverse effect that was not considered.

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

BLM guidance counsels “there will always be some uncertainty about the effects of land management actions…” and “there will always be some risk associated with land management actions” (BLM NEPA Handbook, Section 7.3). The decision-maker must exercise some judgment in evaluating the degree to which the effects are likely to be highly uncertain and risks are unique or unknown. The FERC FEIS analyzed the impacts of the FERC Project including the gen-tie, water pipeline, associated roads and construction. There is an existing transmission line along the same general ROW alignment and BLM has recently permitted two solar projects using the FLPMA ROW process in the same general area. As a result, the BLM can exercise its judgment and determine that it is unlikely that this Proposed Action will have unique or unknown risks. The construction and operation of transmission lines and access roads and spurs and water lines are not unique or unusual. The effects of the construction and operation of transmission lines and access roads and spurs and water pipelines are well understood because the BLM has experience implementing similar actions in similar areas. As such, there are no predicted effects of the Proposed Action on the human environment that are considered to be highly uncertain or involve unique or unknown risks. License-required monitoring and preparation and implementation of License-required resource plans will provide a continuous stream of information to BLM that will reduce the unavoidable uncertainty and risk in land management decisions, which in this case are minimal.

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

Decision makers must consider the degree to which the action may establish a precedent for future reasonably foreseeable actions with significant effects or represents a decision in principle about a future reasonably foreseeable condition. BLM NEPA Handbook, Section 7.3. After thorough analysis, the EA determined that Proposed Action would result in no new significant unmitigated effects. This
conclusion is based on the specific facts of this Proposed Action and does not set a precedent for, or automatically apply to future energy projects and ROWs that the BLM is processing or may process in the future. This is not the first transmission line ROW that the BLM has approved. Any additional ROW would be subject to additional analysis under NEPA before the BLM would issue a decision. Therefore, the type of land use action the BLM proposes to approve for Alternative A does not establish precedents for future actions or represent a decision in principle about a future action. The construction of this transmission line and associated roads and water pipeline ROW is not related to any other project under consideration of approval.

Nor does the Proposed Action set a precedent on how future ROW projects will be permitted in relation to the recently adopted DRECP. The FERC Project is unique in that it is a “valid existing right.” The FERC NEPA and License decision were completed prior to the DRECP LUPA/FEIS Record of Decision (ROD). The FERC Project NEPA was complete and the License was issued by FERC three months before the DRECP LUPA/DEIS was published for comment in September 2014, over a year before the FERC License issued June 2014. Final EIR released July 2013. State Water Board approved project in July 2013 (“FERC License issued June 2014. Final EIR released July 2013. State Water Board approved project in July 2013”). EA, Section 1.7.1. To the extent that DRECP requirements don’t conflict with this VER, the Proposed Action will be required to comply with the DRECP. No precedent is being set by the Proposed Action that would be applicable to future proposals in the DRECP planning area.

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

The EA considered various types of past, present, and reasonably foreseeable future projects on both public and private land within the geographic area of the Proposed Action. The FERC FEIS addressed the cumulative impacts of regional renewable energy development in the FEIS cumulative impacts analysis. FERC FEIS, Section 3.3.5.3 pp. 166-167. BLM has updated this analysis in the EA to reflect changes to
potential future uses as a result of projects being withdrawn and land management decisions. Numerous solar projects that were proposed at the time of the FERC FEIS have been withdrawn, and a proposed landfill project has been cancelled. The DRECP precludes renewable energy development in much of the region, and provides for disturbance caps and CMAs on federal lands in the FERC Project area. The NPS, FONSI analyzes the environmental impacts of transferring 27,000 acres of federal land from BLM to NPS to be included in Joshua Tree National Park and the Withdrawal Notice segregated 22,000 acres for possible transfer to Joshua Tree National Park. No actions with “cumulatively significant effects” have been identified in comments.

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

This is a sub-factor of the “unique characteristics of the geographic area” factor and significance arises with the “loss or destruction” of significant scientific, cultural, or historical resources. BLM NEPA Handbook, Section 7.3. SHPO recognized the entire mine site (FERC Project Area) as a potentially eligible historic mining district, which is now subject to requirements defined in an Historic Properties Management Plan (HPMP) as a condition of the FERC License. The EA discussed, analyzed and disclosed potential cultural resources impacts of Alternative A and determined that other than the two cultural sites within and adjacent to the gen-tie ROW alignment (protected from disturbance by the FERC/SHPO HPMP and Programmatic Agreement) no known eligible sites are present within the Proposed Action alignment and that the Proposed Action would not result in any significant impacts related to cultural resources or cultural resources sites.

The Proposed Action avoids direct effects to districts, sites, highways, structures, or objects listed on the National Register of Historic Places, and would not cause the loss or destruction of significant scientific, cultural, or historical resources. NHPA, Section106 consultations were completed by FERC for the entire FERC Project and BLM for the Proposed Action with interested tribes and SHPO. SHPO and FERC agreed to a Programmatic Agreement and implementation of a HPMP to address impacts to historic resources from the FERC Project.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
Impacts to an endangered or threatened species or its habitat are addressed in the EA. Federally listed species and critical habitat analyzed in the EA include: desert tortoise (threatened), and desert tortoise designated critical habitat (EA, Sections 3.2.3; 4.1.2.3). The FERC, in the FEIS process, addressed the desert tortoise and its habitat (FERC FEIS, Section 3.3.3.4 pp. 120-130; Section 3.3.3.2 p. 106-107; Section 3.3.3.3 pp. 119; Section 5.2 p. 253, 261-263) and engaged in an ESA, Section 7 formal consultation with USFWS. A biological opinion (BO) was prepared in 2012 for the FERC Project. There would be no new effects to a species identified in the EA as endangered or threatened, or to its critical habitat, beyond those disclosed in the FERC FEIS.

- **Desert Tortoise.** As disclosed in the FERC FEIS and 2012 BO, the FERC Project would have direct and indirect effects on desert tortoise. As currently designed, the Proposed Action would permanently affect 0.1 acre of DWMA and 0.4 acre of critical habitat and an estimated 39.8 acres of Category 3 habitat. Indirect effects to desert tortoise in surrounding areas may occur from dust, noise, lighting, traffic, accidental spills, and translocation. The 2012 BO for the desert tortoise included an “incidental take statement” with “reasonable prudent measures” and “terms and conditions.” USFWS, 2012 BO at p. 48. Compliance with the “incidental take statement” was made a mandatory condition in the FERC License. License, Article 415. The License also requires a desert tortoise Habitat Mitigation Plan to be prepared. License, Article 416. BLM initiated informal consultation with USFWS, reviewed 2016 survey results for the entire FERC Project area, and made a change in the location of the brine ponds to reduce impacts to 12.2 acres of desert tortoise habitat on federal lands. The brine ponds will now be entirely located on previously disturbed fee lands within the mine property (EA at p. 88; Table 4-5 and Appendix B). The USFWS BO requires Eagle Crest to provide an estimated 42.3 acres of compensatory desert tortoise habitat lands. Additional mitigation measures include a WEAP (filed with FERC, Oct. 27, 2009), compensation acquisition of habitat at the ratios in the USFWS 2012 BO and as required by the DRECP Chuckwalla ACEC mitigation ratio, pre- and post-construction surveys, desert tortoise monitoring, predator monitoring, exclusion fencing and implementation of a Desert Tortoise Relocation / Translocation Plan (FERC FEIS pp. 177-189 (Desert Tortoise Relocation / Translocation Plan filed with FERC Oct. 27, 2009)).

As the result of the DRECP, NPS FONSI and Withdrawal Notice, there will be a cumulative improvement in the protection of desert tortoise habitat in the area surrounding the Proposed Action.
10. **Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.**

The Proposed Action does not violate any federal, state, local, or tribal law or requirement imposed for the protection of the environment. The Proposed Action will not violate environmental laws as documented in the FERC FEIS, EA and in this FONSI. See EA, Section 1.7, Table 1-2 (list of federal, state, and local permits and other authorizations that may be required for the Proposed Action), and the above discussion for Intensity Factors:

1. compliance with water, air, hazardous materials, and other environmental laws;
2. NHPA Section 106 compliance, and
3. compliance with endangered species laws.

Finally, the issuance of a ROW for the Proposed Action will require the Permittee (Applicant) to comply with all applicable local, state, and/or federal laws, rules, regulations, ordinance, and/or standards.


FINDING OF NO SIGNIFICANT IMPACT

I have determined that, with incorporation of the conservation measures and mitigation measures described in the EA, the Proposed Action will not result in significant impacts to the quality of the human environment, that supplementation of the FERC FEIS is not required, and that another project-specific EIS is not required for BLM’s approval of the Proposed Action (LUPA and ROW).

Approved by: _______________________________ 04/20/2017

Field Manager                      Date