

**RECORD OF DECISION
Desert Harvest Solar Project
And
Amendment to the California Desert Conservation Area Land Use Management Plan**

Lead Agency:

United States Department of the Interior
Bureau of Land Management

Environmental Impact Statement DOI-BLM-CA-D000-2012-0004-EIS
Case File Number: CA-49491

Desert Harvest Solar Project
Decision to Grant Right-of-Way, United States Department of the Interior
Bureau of Land Management
Palm Springs South Coast Field Office
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March 6, 2013



Cooperating Federal Agency:
National Park Service

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List of Abbreviations

AC	Alternating Current
ACEC	Area of Critical Environmental Concern
AO	Authorized Officer
APE	Area of Potential Effects
BA	Biological Assessment
BBCS	Bird and Bat Conservation Strategy
BGEPA	Bald and Golden Eagle Protection Act of 1940
BLM	Bureau of Land Management
BMPs	Best Management Practices
BO	Biological Opinion
CBD	Center for Biological Diversity
CDFG	California Department of Fish and Game
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CFR	Code of Federal Regulations
CRIT	Colorado River Indian Tribes
CSP	concentrating solar power
CVGB	Chuckwalla Valley Groundwater Basin
DNA	Determination of NEPA Adequacy
DOI	Department of the Interior
DSHP	Desert Harvest Solar Project
EPAct	Energy Policy Act
ESA	Endangered Species Act
FERC	Federal Energy Regulatory Commission
FLPMA	Federal Land Policy and Management Act
GHG	Greenhouse Gas
MMRP	Mitigation Monitoring and Reporting Plan
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NAHC	Native American Heritage Commission
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NOA	Notice of Availability
NOI	Notice of Intent
NTP	Notice to Proceed
OPR	Office of Planning and Research
POD	Plan of Development
PUP	Public Use Permit
PV	photovoltaic
ROD	Record of Decision
ROW	Right-of-Way
RPS	renewable portfolio standard
SCE	Southern California Edison
SEZ	Solar Energy Zone
SHPO	State Historic Preservation Office
SLF	Sacred Lands File
USACE	United States Army Corps of Engineers
USC	United States Code
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service

WHMA Wildlife Habitat Management Area

Executive Summary

This Record of Decision (ROD) explains the decisions of the Department of the Interior (DOI) and Bureau of Land Management (BLM) to approve a revised configuration of EDF Renewable Energy's (EDF's)¹ (Applicant) application for a right-of-way (ROW) grant for the Desert Harvest Solar Project (DSHP) and associated amendments to the California Desert Conservation Area Plan of 1980, as amended (BLM 1980) (CDCA Plan).

These decisions are based on our careful consideration of: (i) the information generated during the analytical and consultation processes required by the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Endangered Species Act (ESA), and DOI tribal consultation policies; (ii) the reasonable alternatives to the proposed DHSP and potential for resource conflicts associated with the proposed solar energy facility and transmission line development project in Riverside County, California; (iii) the agency's balance of essential considerations of national policy and the Project's potential impacts on environmental and cultural resources; and (iv) the practicable means to avoid, minimize, or mitigate those impacts. This information was presented and analyzed in the Final Environmental Impact Statement and Proposed CDCA Plan Amendment for the DHSP (Final EIS), which was published on November 2, 2012.

This ROD makes three decisions.

- First, it approves the issuance of a Federal Land Policy and Management Act (FLPMA) Title V ROW grant to the Applicant to construct, operate, maintain, and decommission the DHSP, selecting a solar facility that is a combination of the facility footprint (i.e., both north and south parcels) analysis as part of the Final EIS's Alternative 4 (the proposed solar facility, *see* Figure 2-2 (FEIS Appendix A)), but utilizing the high profile panels analyzed in Alternative 7 (*see* Figure 2-11 (FEIS Appendix A)).² While this combination of alternatives was not analyzed as a separate alternative in the Final EIS, the impacts of this combination is nevertheless within the spectrum of impacts analyzed in the Final EIS, and therefore it is within the scope of the analysis presented in the Final EIS. The combination is referred to in this document as the Selected Alternative. In addition to approving the Selected Alternative, the ROW grant approved by this ROD also authorizes the Project's generation intertie transmission line (gen-tie line). The gen-tie line ROW grant would follow the route analyzed under Alternatives B and C in the EIS and would authorize the collocation of transmission facilities on the existing Desert Sunlight Project's gen-tie line, construction of transmission facilities parallel to the Desert Sunlight Line, or some combination thereof, subject to the limitations identified below, which configurations were analyzed under Alternatives B and C of the Final EIS, respectively. The NEPA adequacy of the Selected Alternative is explained in Section 3.1.7 of this ROD.
- Second, it amends the CDCA Plan to identify 1,208 acres of public land within the solar facility footprint as suitable for solar energy development (*see* Figure 2-2, FEIS Appendix A).

¹ The Applicant initially filed its Plan of Development (POD) as enXco Development Corporation. As of August 20, 2012, the Applicant has changed its name to EDF Renewable Energy.

² Alternative 4 as analyzed in the FEIS would have utilized low-profile panels.

- Third, it amends the CDCA Plan to allow the project's high-voltage transmission line outside of a federally designated energy corridor (see Figure 3.11-1, FEIS Appendix A).

Decision Rationale

These decisions are made based on a careful balancing of:

- (i) the importance of the DHSP to California achieving its renewable portfolio standard (RPS) and greenhouse gas (GHG) reduction objectives, diversifying the Nation's energy supply, achievement of energy independence, creating jobs, and implementing the Energy Policy Act (EPA) "sense of Congress" direction to authorize the production of 10,000 MW of non-hydropower renewable energy on public lands by 2015, against
- (ii) the importance of preserving the environmental and cultural resources found on those lands that would be affected by the construction, operation, maintenance, and decommissioning of the DHSP.

This balancing is consistent with the BLM's mandate to manage the public lands for multiple uses, as required by FLPMA, and it is based on full public disclosure and involvement, government-to-government consultations with affected Indian tribes, and comprehensive analyses prepared by highly qualified technical experts regarding the potential effects of the project and its alternatives, as reflected in the Final EIS, the Biological Opinion (BO), and the Memorandum of Agreement (MOA). In announcing this decision based on the analysis in the record, this ROD emphasizes the following considerations:

- The energy produced by the DHSP could displace up to 105,334 metric tons of carbon dioxide equivalents per year (MTCO₂e/year) that may otherwise be emitted by power plants currently generating electricity for the California system; this displacement of fossil fuel use would occur if the intermittent solar energy produced by the DHSP were fully integrated into the region-wide electrical grid and used to offset generation from higher polluting power plants.
- Based on consultations with the United States Fish and Wildlife Service (USFWS), the project is not likely to jeopardize the continued existence of the desert tortoise or destroy or adversely modify designated critical habitat. (USFWS 2012; see Appendix 1 of this ROD)
- The project's Habitat Compensation Plan will avoid, minimize, and monitor the project's impacts to desert tortoise and other protected species.
- The project's adverse effects to cultural resources have been minimized or mitigated to the extent feasible, and to the satisfaction of the consulting parties pursuant to Section 106 of the National Historic Preservation Act (NHPA), as evidenced by the execution of the Project's Section 106 MOA.
- The DHSP approval contains mitigation measures which ensure that the Project will not contribute to overdraft conditions, either individually or cumulatively, in the Chuckwalla Valley Groundwater Basin per the requirements of California water law (see Mitigation Measure MM WAT-2 in Appendix 3 of this ROD).

- The stipulations and mitigation measures adopted by this ROD to ensure compliance with all applicable laws, regulations, standards, guidelines, and policies will mitigate the impacts to environmental resources to the maximum extent practicable, including:
 - Desert tortoise, including their critical habitat
 - Special status plants and wildlife
 - Visual impacts to surrounding lands with special designations
 - Groundwater resources
 - Cultural and paleontological resources
 - Air quality
 - Traffic, and
 - Noise.

After a careful review of the totality of this information and responding to the comments and concerns identified by members of the public and affected tribes, the DOI and the BLM find that the issuance of the Project's ROW grant and associated Plan Amendments are in the public interest.

1. Decisions

This ROD explains the decisions of the DOI and BLM to approve a revised configuration, the Selected Alternative, of the Applicant's ROW grant application for the DHSP and associated amendments to the CDCA Plan.

1.1 Background

1.1.1 Applicant and Application

The Applicant, EDF, is a wholly owned affiliate of EDF Energies Nouvelles (formerly SIIF Energies), which is a 50 percent-owned subsidiary of the EDF Group. The Applicant was formerly known as "enXco." The Applicant filed a ROW grant application with the BLM to construct, operate, maintain, and decommission the Project (Case File Number CACA #49491). As part of the ROW grant application process, the Applicant submitted a Plan of Development (POD) for the project to the BLM on December 22, 2009, followed by several revisions of the POD to supplement information provided in the original submittal in November 2010, April 2011, and February 2013.

1.1.2 Purpose and Need

In accordance with FLPMA (Section 103(c)), public lands are to be managed for multiple uses and in consideration of the long-term needs of future generations for renewable and non-renewable resources. The Secretary of the Interior is authorized to grant ROWs on public lands for systems of generation, transmission, and distribution of electric energy (Section 501(a)(4)). Taking into account the BLM's multiple use mandate, the purpose and need for the DHSP is to respond to a FLPMA ROW grant application submitted by the Applicant to construct, operate, maintain, and decommission a solar energy generating facility and associated infrastructure on public lands administered by the BLM in compliance with FLPMA, BLM ROW regulations, and other applicable Federal laws and policies.

The DHSP will assist the BLM in addressing the management objectives in:

- The Energy Policy Act 2005 (EPAAct), Title II, Section 211, which sets forth the "sense of Congress" that the Secretary of the Interior should seek to have approved non-hydropower renewable energy projects on the public lands with a generation capacity of at least 10,000 MW by 2015
- Executive Order 13212, dated 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 3285A1, dated February 22, 2010, which establishes the development of renewable energy as a priority for the Department of the Interior.

The BLM is deciding whether to grant the ROW, deny the proposed ROW, or grant the ROW with modifications. The BLM may include any terms, conditions, and stipulations it determines to be in the public interest, and may include modifying the proposed use or changing the route or location of the proposed facilities (43 CFR 2805.10(a)(1)).

In connection with its decision on the DHSP, the BLM's action includes an amendment to the CDCA Plan, as analyzed in the Final EIS alternatives. The CDCA Plan, while recognizing the potential compatibility of solar energy facilities on public lands, requires that all sites associated with power generation or transmission not identified in that Plan be considered through the land use plan amendment process. The BLM policy also encourages the avoidance of development on lands with high conflict or sensitive resource values (IM 2011-061). Therefore in connection with the ROW grant application for the proposed Project, the BLM is deciding whether to amend the CDCA Plan to identify the project site as available for solar energy development or whether to amend the CDCA Plan to make the area unavailable for solar development.

Similarly, the CDCA Plan requires that transmission lines above 161 kV be placed within a federally designated utility corridor or that the transmission line be specifically allowed outside a corridor through a plan amendment process. There is no available designated corridor from the DHSP site to the Red Bluff Substation. For the gen-tie to be consistent with the CDCA Plan, the Plan requires an amendment to either allow the proposed transmission gen-tie lines outside designated utility corridors or to create a corridor. The BLM is not considering creating a new corridor as a component of this project, and therefore is amending the CDCA Plan to authorize the Project's gen-tie line to be located outside a designated utility corridor.

1.1.3 BLM Authority

1.1.3.1 Federal Land Policy and Management Act of 1976

The FLPMA establishes policies and procedures for the management of public lands. In Section 102(a)(8), 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 United States Code (USC) 1701(a)(8)).”

Section 202 of FLPMA and the regulations implementing FLPMA's 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 public lands.

Title V of FLPMA (43 USC 1761-1771) authorizes the BLM, acting on behalf of the Secretary of the Interior, to authorize a ROW grant on, 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 BLM Authorized Officer (AO) administers the ROW authorization and ensures compliance with the terms and conditions of the ROW grant. The AO is any employee of the Department of the Interior 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 ROW grants 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 ROW grants has been further delegated to the Field Managers.

In respect to this specific ROW grant, this authority has been delegated to the Field Manager of the Palm Springs South Coast Field Office, who will be responsible for managing the ROW grant for the DHSP.

1.1.3.2 National Environmental Policy Act

Section 102(2)(c) of the National Environmental Policy Act (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 directives into agency planning to ensure appropriate consideration of NEPA’s policies and to eliminate delay.

When taking actions such as approving CDCA Plan Amendments and ROW grants, the BLM must comply with the applicable requirements of NEPA and its implementing 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 decision, and identifying actions that protect, restore, and enhance the environment. The DEIS, FEIS, and this ROD document the BLM’s compliance with the requirements of NEPA with respect to the DHSP and associated plan amendment.

1.1.3.3 California Desert Conservation Area Plan

In furtherance of its authority under the FLPMA, the BLM manages public lands in the California Desert District pursuant to the CDCA Plan, as amended. The 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 Plan amendment process. Because the CDCA Plan has not previously identified the DHSP site for power generation, the Plan must be further amended to allow a solar energy generation project on that site. Similarly, the CDCA Plan requires that transmission lines above 161 kV be placed within a federally designated utility corridor or that the transmission line be specifically allowed outside a corridor through a plan amendment process. Since there is no designated corridor from the DHSP site to the Red Bluff Substation, the Plan must be further amended to allow the DHSP’s gen-tie line outside of a designated corridor. The planning criteria for considering an amendment to the CDCA Plan are discussed in CDCA Plan Chapter 4.10, *Land Use and Corridor Analysis*.

1.1.3.4 Solar Energy Development Programmatic Environmental Impact Statement (Solar PEIS)

In October, 2012, Secretary of the Interior Ken Salazar signed the Approved Resource Management Plan Amendments/Record of Decision for Solar Energy Development in Six Southwestern States (Solar PEIS). Through the Solar PEIS, the BLM replaced certain elements of its existing solar energy policies with a comprehensive Solar Energy Program, and amended land use plans, including the CDCA Plan, to establish the foundation for that program. Specifically, the Solar PEIS designated Solar Energy Zones (SEZs), where BLM will prioritize and facilitate utility-scale production of solar energy and associated transmission infrastructure developments. It also designated exclusion areas where utility-scale solar development would

not be permitted, and variance areas, which may be available for utility-scale solar energy ROW grants with special stipulations or considerations.

The DHSP is not subject to the Solar PEIS ROD, or the CDCA Plan Amendments made as a result of that decision. Appendix B of the Solar PEIS ROD defines “pending” application as “any applications...filed within SEZs before June 30, 2009.” The DHSP Applicant’s initial application was filed on October 13, 2007, in an area that was later included in the Riverside East SEZ. Section 3.2 of the Solar PEIS ROD states that “Pending applications will not be subject to any decisions adopted by this ROD. The BLM will process pending solar applications consistent with land use plan decisions in place prior to amendment by this ROD and policies and procedures currently in place...or as may be modified in the future.” Consequently, the DHSP is not subject to the Solar PEIS ROD or to the CDCA Plan amendments made in that decision; instead it remains subject to the pre-Solar PEIS ROD requirements of the CDCA Plan, as explained in this ROD.

1.1.3.4 Other Guidance and Regulations

The BLM processes ROW grant applications for solar development in accordance with 43 CFR 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.

The DHSP is located primarily outside of existing designated utility corridors, but portions of the gen-tie line are located within a designated utility corridor. Impacts related to being located in a corridor have been evaluated in the FEIS.

In addition to FLPMA, the applicable authorities, guidance, and policy 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.”
- The 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 FLPMA and 43 CFR, Part 2800. Commercial concentrating solar power (CSP) or photovoltaic 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.”
- Secretarial Order 3285A1, dated February 22, 2010, which establishes the development of renewable energy as a priority for the Department of the Interior.
- Instruction Memorandum 2011-59, *National Environmental Policy Act Compliance for Utility-Scale Renewable Energy Right-of-Way Authorizations* (February 7, 2011), which reiterates and clarifies existing BLM NEPA policy to assist offices that are analyzing externally-generated, utility-scale renewable energy ROW grant applications. It includes examples and guidance applicable to such applications that supplement information in the BLM's NEPA Handbook (H-1790-1) that reflect that utility-scale renewable energy projects are distinct from many other types of land and realty actions due to their size and potential for significant resource conflicts, as well as the priority that has been placed on them by the DOI.

1.2 Information Developed Since the FEIS and Adequacy of NEPA Analysis

Since the publication of the FEIS and the close of the protest period for the proposed plan amendment, the following new information has become available.

- The MOA between BLM, EDF, and the SHPO was developed and executed on February 20, 2013, by all three parties, concluding BLM's obligations under Section 106 of the NHPA have been met with respect to this project.
- The Final BO for the DHSP was issued by the USFWS on January 16, 2013, which identifies the BLM's obligations for this project under Section 7 of the ESA.
- The location of the off-site operations and maintenance (O&M) facility has been disclosed (see Figure ROD-1).
- The Applicant provided information that 150 MW was the minimum target capacity required for a PV generating facility to be economically feasible on the Project site.
- The Applicant demonstrated that the taller, high-profile, panels would be capable of meeting the Project's generation needs. The taller, high-profile, panels will supply greater energy generation efficiency within the same footprint and with substantially similar impacts. The taller panels would produce the 150 MW target capacity, but would be far more efficient in providing renewable energy to the electrical grid, yielding 341,000 MWh per year (MWh/y). The shorter panels, on the other hand, would allow for a capacity of 150 MW, but would be substantially less efficient, yielding only 240,000 MWh/y. According to the Applicant's statements, the higher efficiency, high-profile panels are needed to meet in-progress contractual obligations of a pending Power Purchase Agreement for the Project, and are thus critical to ensuring the Project's technical and economic feasibility.

- The BLM has approved variances for Desert Sunlight's gen-tie ROW consistent with the Desert Sunlight ROD, MOA, and other applicable requirements, including NEPA. These approved variances alter the route that would be followed by the DHSP gen-tie under Alternatives B and C, as those Alternatives utilize the Desert Sunlight line's route. Because the changes are being processed through the Desert Sunlight project in full compliance with NEPA, no additional analysis is required here. Moreover, the approved variances to the Desert Sunlight line have served to reduce impacts to cultural resources identified in pre-construction surveys. These approved variances associated with the Desert Sunlight line include moving a previously approved access road for the gen-tie line along an existing access road, which prevents building a new, parallel access road, reduces direct impacts to desert tortoise critical habitat, and minimizes project impacts to cultural properties.

This information was considered in the BLM's protest responses and as part of the decision made in this ROD. In connection with its evaluation of this information, the BLM has determined that no new or supplemental environmental analysis is necessary because the new information does not change the analysis in the FEIS. Specifically, the O&M facility would be located in an existing building, and access to the site would be via existing paved roads. This off-site O&M facility was analyzed as a component of the proposed project and alternatives in the EIS. Even though the precise location of the O&M facility was not disclosed in the EIS, the EIS evaluated the effects of both an onsite O&M facility and one located off-site within a 10-mile radius of the solar generation site. As result of this assumption, vehicle trips related to an off-site O&M location were included in traffic and noise projections in the EIS, and an off-site O&M location was considered by BLM and the USFWS for its contribution to potential desert tortoise mortality.

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

1.3.1 Right-of-Way Grant

Under Federal law, the BLM is responsible for processing ROW applications to determine whether and to what extent to authorize proposed projects, such as renewable energy projects and other appurtenant facilities, on land it manages. Because the project is a privately-initiated venture that would be sited on lands managed by the BLM, the Applicant applied for a ROW grant from the BLM pursuant to the applicable Federal laws and regulations. Under this ROD, a FLPMA ROW grant will be issued to the Applicant in conformance with Title V of FLPMA and the applicable implementing regulations found at 43 CFR Part 2800. The ROW grant will allow the Applicant the right to use, occupy, and develop a total of 1,412 acres of public lands within the DHSP footprint to construct, maintain, and decommission the DHSP solar facility and gen-tie line. It will only apply to the BLM-administered public lands within the boundary of the DHSP. The ROW grant will be issued to the Applicant for a term of 30 years, with an option to renew in accordance with 43 CFR 2807.22. The DHSP configuration being approved is a combination of the facility footprint analyzed under Alternative 4, the high-profile panels utilized by Alternative 7, and the gen-tie route analyzed under Alternative B (as modified by the approved variances for the Desert Sunlight Solar Project) in the FEIS, and referred to as the DHSP or the Selected Alternative in this ROD. The ROW grant will include a stipulation requiring EDF to obtain an agreement with a private land owner and the Federal Energy Regulatory Commission (FERC) to allow the crossing of private land and FERC withdrawn land to connect the southern parcel with

the northern parcel and to install transmission infrastructure across such lands. A Notice to Proceed (NTP) for construction for the southern parcel will be contingent on EDF providing the BLM with written agreements addressing the use of private and FERC withdrawn lands.

The DHSP solar facility will be located on BLM-administered land 5 miles north of Desert Center in Riverside County (see Figure 2-1, Project Overview Map, in Appendix A of the FEIS). The solar facility will be located on a total 1,208 acres, and will be comprised of two separate parcels separated by private land that includes a desert wash and a FERC land withdrawal. The northern parcel consists of 1,053 acres and the southern parcel consists of 155 acres. The approved solar facility will be a 150 MW nominal capacity, alternating current (AC) solar photovoltaic (PV) energy-generating project that would be expected to produce a minimum of 341,000 megawatt-hours per year (MWh/y) with a net capacity factor of 22 to 26 percent. The approved gen-tie line will be located on 204 acres on BLM-managed land and will run south and east from the solar facility to the Southern California Edison (SCE) planned Red Bluff Substation. The approved ROW for the gen-tie line on BLM lands is 11.4 miles long and 160 feet wide, including 80 feet on either side of the center line shown in Figure ROD-2.

Portions of the approved gen-tie line must cross private and County-owned land. The BLM does not have the authority to approve the portion of the project located on non-Federal lands. The County of Riverside has the authority to issue those permits. A NTP for construction for gen-tie will be contingent on EDF providing the BLM with written agreements addressing the use of private lands. The gen-tie line will share towers with the Desert Sunlight project.

Approved project elements associated with the DHSP include:

- Main generation area— photovoltaic arrays (including high-profile panels up to 15 feet high) switchyard, inverters, overhead lines, and access corridors
- Off-site O&M facility in an existing building (as shown in Figure ROD-1), or an on-site O&M facility if the off-site location proves infeasible, both of which were analyzed in the EIS for the Project.
- On-site electrical substation and switch gear
- On-site overhead or underground electrical collector lines on wood poles up to 52 feet above grade
- Site security, fencing, and lighting
- Up to 260 acres of on-site access roads within the 1,208-acre footprint
- Up to 500 acre-feet per year of water during a maximum of 2-year construction period
- Up to 39.02 acre-feet per year of water during operations
- Maintenance of the facility during operations

Approved project elements associated with the gen-tie line include:

- A 220 kV transmission conductor to be strung on shared transmission poles (up to approximately 135 feet above grade)
- Access to shared ROW and use of shared access roads
- Permanent disturbance of up to 92 acres of land as shown on Figure ROD-2

- Maintenance of the gen-tie line
- As of the date hereof, Desert Harvest, LLC and Desert Sunlight Holdings, LLC have yet to execute a shared use agreement that allows the two projects to use a common gen-tie line to connect both to the Red Bluff substation. As a result, the ROW grant will permit the Applicant to either construct, operate, maintain, or decommission a gen-tie collocated on the existing Desert Sunlight facilities, on separate transmission towers constructed in parallel and within the same ROW as the Desert Sunlight Line, or some combination thereof.³ Under either scenario, the gen-tie line route would follow the route analyzed under Alternatives B and C of the EIS, or some combination thereof. Prior to the issuance of a NTP authorizing the construction of a separate but parallel line, the BLM will require: (1) Desert Harvest, LLC to provide the BLM with sufficient documentation detailing Desert Harvest and Desert Sunlight Holdings' inability to reach an agreement on the shared gen-tie, (2) a financial, technical, and environmental feasibility analysis on all potential gen-tie locations, and (3) any other documentation the BLM deems necessary.

Certain design features have been incorporated into the DHSP, including the Applicant Measures listed in the FEIS (Table 2-5 at FEIS pages 2-20 through 2-24). In addition, the DHSP has been designed to be constructed in three phases.

Construction of Phase 1 will include pre-construction surveys, exclusion fencing around a 10-acre area in the northwest corner of the DHSP solar facility's northern parcel, desert tortoise exclusion (if tortoise are present), clearing and construction of a laydown yard, parking area, and pad mounts for transformers.

Construction of Phase 2 will include site fencing, installation of temporary power, site grading and preparation over the 1,043-acre northern parcel, construction of the O&M building (if on-site) or occupancy of the O&M building (if off-site) and on-site roads, construction of the on-site wells, construction of the project substation and switchyard, and assembly and installation of panel blocks and wiring for 137 MW of solar power.

Construction of Phase 3 will include site grading and preparation over the 155-acre southern parcel, assembly and installation of panel blocks and wiring for 13 MW of solar power. Panel blocks will not be installed within the FERC exclusion area crossing the southern parcel (see Figure 2-3a in Appendix A of the FEIS).

The BLM will provide a separate NTP for each phase of construction.

The ROD requires the Applicant to secure all necessary local, state, and federal permits, authorizations, and approvals. Upon receipt of the NTP(s), and by remaining in compliance with the ROW grant, the Applicant will be able to construct, operate, maintain, and decommission the

³ If a separate line with the Desert Sunlight ROW is ultimately selected it will include: (1) 11.4 miles by 160 feet wide 230 kilovolt (kV) double circuit transmission line, with 5.4 miles located on BLM land outside a designated utility corridor, and an additional 6 miles requiring 60 feet of additional ROW width that is outside of a designated utility corridor; (2) temporary and permanent access roads; (3) an estimated 73 transmission structures on land managed by BLM; and (4) fiber optic communication lines located on same gen-tie line that terminates at the Red Bluff Substation.

DHSP. Additionally, the BLM will not issue any NTPs to begin ground disturbing activities under the ROW grants until the holder verifies it has secured a Power Purchase Agreement.

1.3.2 Land Use Plan Amendment

Through this ROD, the CDCA Plan is amended to identify the DHSP solar facility site as suitable for solar energy generation per the FEIS and Proposed CDCA Plan Amendment as shown on Figure 2-2 in Appendix A of the FEIS, and to grant permission for the Applicant to construct a high-voltage transmission line outside of a designated utility corridor per the EIS and Proposed CDCA Plan Amendment (2012) as shown on Figure 2-12 in Appendix A of the FEIS.

1.4 ROW Requirements

The BLM uses SF 2800-14 (ROW Lease/Grant) as the instrument to authorize the ROW grants for the project; they include the POD and all other terms, conditions, stipulations, and measures required as part of the grant authorizations. Consistent with BLM policy, the DHSP ROW grants will include a diligence development and performance-bonding requirement for installation of facilities consistent with the approved POD. Construction of the initial phase of development must commence within 18 months after issuance of the NTP but no later than 24 months after the effective date of the issuance of the ROW grants. The holders shall complete construction within the timeframes approved by the BLM for phased construction. Failure to follow due diligence may result in cancellation of the ROW grant.

1.5 Future Changes to the Approved Project

At various times throughout the project, the need for extra workspace or additional access roads may be identified. Similarly, changes to the project requirements (e.g., mitigation measures, specifications, etc.) may be needed to facilitate construction or provide more effective protection of resources. The BLM and grant holder will work together, and with other parties as applicable, to find solutions when adjustments are necessary for specific field situations to avoid conflicts with adopted mitigation measures or specifications.

The BLM Compliance Project Manager and Compliance Monitors will ensure, as specified in the project's Mitigation, Monitoring and Reporting Plan (MMRP) (Appendix 4), that any adjustments to Project requirements that may be required in the future as a result of currently unknown conditions will be made consistent with NEPA and any other applicable legal requirements. A proposed project change that has the potential for creating significant environmental effects will be evaluated to determine whether supplemental NEPA analysis is required. In some cases, an adjustment may also require approval by jurisdictional agencies, or additional consultation as applicable. In general, an adjustment or other modification request must include the following information:

- Detailed description of the location, including maps, photos, and/or other supporting documents
- How the adjustment request deviates from a project requirement
- Biological surveys or verification that no biological resources would be significantly impacted

- Cultural resource surveys or verification that no cultural resources would be significantly impacted
- Landowner approval if the location is not within the ROW
- Approval from other agencies (if necessary/applicable)

2. Mitigation Monitoring

2.1 Required Mitigation

The DHSP includes the following measures, terms, and conditions:

- Terms and conditions in the USFWS BO (Appendix 1)
- Terms and conditions in the MOA (Appendix 2)
- Adopted avoidance, minimization, and mitigation measures identified in this ROD (Appendix 3), as may be amended by the BLM
- The MMRP (Appendix 4), as may be amended by BLM

For compliance purposes, the complete language of these measures, terms, and conditions is provided in Appendix 3 of this ROD. These measures, terms, and conditions are determined to be in the public interest pursuant to 43 CFR 2805.10(a)(1), as they insure the project will be constructed, operated, maintained, and decommissioned in conformity with the decisions made by the BLM. The measures, terms, and conditions are subject to amendment only through a formal variance request and conditional approval process, as appropriate. The MMRP would only be amended as required by BLM, other permitting agencies, and/or by the principles of adaptive management applicable to this project.

Mitigation Measures SD-1, SD-2, and SD-3 require the Applicant to coordinate mitigation measures with NPS and to enter into an agreement with the NPS to carry out certain mitigation measures. The NPS and the Project Applicant finalized a Cooperative Agreement addressing those mitigation obligations on March 11, 2013. This ROD adopts that Cooperative Agreement and makes compliance with it a term and condition of the Project's ROW grant.

Finally, the Applicant has entered into an agreement with two protesters, Natural Resources Defense Council and Defenders of Wildlife, to carry out certain mitigation measures. Compliance with this separate agreement will be required by the BLM as a term and condition of the grant. See Section 5.4 and Appendix 8 for details.

2.2 Monitoring and Enforcement

A monitoring and enforcement program shall be adopted where applicable for any mitigation (40 CFR 1505.2 (c)). Agencies may provide for monitoring to assure that their decisions are carried out. Mitigation and other conditions established in the FEIS, as amended herein, or committed to as part of the decision shall be implemented by the lead agency or other appropriate consenting agency (40 CFR 1505.2(c), 1505.3). The lead agency shall:

- Include appropriate conditions in grants, permits, or other approvals;

- Condition funding of actions on mitigation;
- Upon request, inform cooperating or commenting agencies on the progress in carrying out mitigation measures they have proposed and that were adopted by the agency making the decision; and
- Upon request and as permitted by law, make available to the public the results of relevant monitoring. (40 CFR 1505.3)

As the Federal lead agency for the DHSP under NEPA, the BLM is responsible for ensuring compliance with all adopted mitigation measures for the DHSP. The complete language of all the monitoring and enforcement measures is provided in the MMRP, which is found in Appendix 4 of this ROD.

Additionally, the Applicant has entered into an agreement with the NPS to carry out certain monitoring measures, compliance such agreement has been incorporated as a term and condition of the Project's ROW grant. The Applicant has also entered into an agreement with two protesters, Natural Resources Defense Council and Defenders of Wildlife, to carry out certain monitoring measures. Compliance with this separate agreement will be required by the BLM as a term and condition of the grant. See Section 5.4 and Appendix 8 for details.

Failure on the part of the grant holder to adhere to these terms and conditions could result in administrative actions up to and including termination of the ROW grant and the removal of facilities and rehabilitation of all public land disturbances.

2.3 Mitigation Measures Not Adopted or Modified

Except as noted below, all the mitigation measures included in the FEIS as amended by this ROD, BO, MOA, and MMRP are adopted and provided in Appendices 1 through 4 of this ROD. All but four of the BLM-identified mitigation measures from the FEIS have been adopted as written in this ROD.

As a result of public and agency comment on the Final EIS, three mitigation measures (MM WAT-2, MM PHS-8, and MM WIL-7) from the Final EIS are modified by this ROD. The MM CUL-10 is being modified by this ROD based on comments from the Applicant regarding its potential technical feasibility. The MM WAT-2, MM PHS-8, MM WIL-7, and MM CUL-10 are included in full in strikeout-underline format in Appendix 7 of this ROD.

The modifications to **MM WAT-2** achieve two results:

1. The first change eliminates the Project owner's option to truck water from an off-site location during years of overdraft in the Chuckwalla Valley Groundwater Basin (CVGB), as this option would result in adverse effects on other resources, including transportation and public access, noise, air quality, energy and minerals, climate change, and biological resources, as described in the FEIS (FEIS at pp.4.20-23 to 4.20-24). Furthermore, this option would be unnecessarily costly.
2. The second change explicitly allows for the Project owner, during years of overdraft conditions in the CVGB, to offset groundwater pumped from on-site wells by purchasing out-of-basin water that is subsequently used to recharge the CVGB. On-site pumping may not occur until the associated recharge has begun.

MM PHS-8, regarding munitions and explosives has been amended to include the requirement “The site shall be surveyed and cleared of all munitions and explosives of concern by a qualified expert prior to the issuance of a notice to proceed.”

MM WIL-7, regarding desert kit fox and American badger, was modified to require the Project owner to implement a long-term monitoring program. The measure requires the Project owner to contract a qualified biologist to conduct a baseline kit fox census and population health survey and prepare and implement a Desert Kit Fox Management Plan. The measure specifies the requirements for baseline Desert Kit Fox and American Badger surveys, preparation and implementation of a management plan, and alternatives to badger relocation. This measure has been coordinated with the California Department of Fish and Wildlife (CDFW).

MM CUL-10, regarding implementing a radio program, has been modified to allow for another type of interpretive program in the case that due to physical, technical, or regulatory constraints, a radio program cannot be implemented.

Additionally, the Applicant reached a separate agreement with two protesters, Defenders of Wildlife and Natural Resources Defense Council, to implement certain additional mitigation measures, which are described in Section 5.4 below. That agreement, including the additional and modified measures, is detailed in Appendix 7 (see MM WIL-7, VEG-4, and VEG-6) and Appendix 8. Compliance with these additional measures will be incorporated to the ROW grant as a term and condition. The agreement between the Applicant and the protesters included language regarding the Desert Kit Fox and American Badger (MM WIL-7). While the BLM has incorporated that language into MM WIL-7, it further modified it to reflect additional input from the CDFW.

The measures outlined above have been incorporated into Appendix 3, and are provided in Appendix 7.

2.4 Statement of All Practicable Mitigation Adopted

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 DHSP. The complete language of those measures is provided in Appendix 3 of this ROD. Additional mitigation may be necessary to fully mitigate potential effects of the project under applicable State laws (including the California Environmental Quality Act), rules, policy, or regulations. Those additional measures, to the extent they exist, will be identified by the applicable state agency. The applicant will be required to comply with any such requirements based on the ROW grant’s general requirement that the Project comply with all applicable state laws.

2.5 Coordination with Other BLM Monitoring Activities

Reporting shall occur in standardized formats as provided by BLM. All PSSC Field Office monitoring reports will be entered into a planned central database (see Appendix 4 of this ROD).

3. Management Considerations

3.1 Decision Rationale

This decision approves a ROW grant and associated CDCA Plan amendments for the DHSP. As explained below, the Selected Alternative, even though not specifically analyzed, is within the range of alternatives analyzed in the FEIS (Alternative 4 layout, Alternative 7 panel height, Alternative B gen-tie). Thus, the resulting determination is that BLM would allow a 15 foot PV panel height in order to accommodate efficient tracking technology and would also allow development of the southern parcel utilizing the same technology. The BLM's decision to authorize this activity is based on the rationale described throughout the ROD and as detailed in the following sections. The following major issues have been taken into consideration in this decision:

- **Air Quality.** Air pollutant emissions during construction would likely result in temporary and unavoidable adverse PM10, VOC, CO, and NOx impacts. Mitigation Measures would mitigate emissions during construction and operation to the maximum extent feasible.
- **Vegetation Resources.** Temporary disturbance and permanent loss of vegetation and habitat, jurisdictional streambeds, sensitive communities, and special status plant species would occur on site due to the construction of the project. Dust and erosion related to construction would impact off-site plant species. Some mitigation measures would mitigate adverse impacts to vegetation resources by preventing the impacts from occurring, while others would offset adverse impacts on the project site through the purchase of compensatory off-site habitats. These measures would minimize, reduce, and compensate for adverse impacts to vegetation resources to the maximum extent feasible.
- **Wildlife Resources.** Temporary disturbance and permanent loss of wildlife habitat on site, displacement of wildlife off site, regional habitat fragmentation, and disturbances by dust, light, and noise of off-site habitat would result from project construction and operation. Operation and maintenance would further impact birds on site as explained in the FEIS. The Project would also contribute to loss of special status species in the NECO planning area. As with Vegetation Resources above, some mitigation measures would mitigate adverse impacts to wildlife resources by preventing the impacts from occurring, while others would offset adverse impacts on the project site through the purchase of compensatory off-site habitats. These measures would minimize, reduce, and compensate for adverse impacts to wildlife resources to the maximum extent feasible.
- **Cultural Resources.** Potential direct and indirect impacts to cultural resource and/or historic properties within the DHSP Area of Potential Effects (APE). Mitigation measures developed for the EIS and the MOA, as well as those to be included in the HPTP will reduce these impacts to the maximum extent practicable through avoidance, awareness, monitoring, reporting, plan development, and other requirements.
- **Lands and Realty.** The project would contribute to existing large-scale land use conversion along the I-10 corridor (over 52,000 acres or 2.5 percent of the land along the I-10 corridor has been converted to large-scale developments). However, the incremental contribution of the project to cumulative effects would be small because of the size of the Project (1,208 acres) relative to the total area of development (52,000 acres). Additionally,

Applicant measures and other mitigation measures adopted by this ROD will further reduce impacts to the surrounding community associated with the Project.

- **Noise.** The project would result in a substantial increase in traffic noise levels during construction and decommissioning along Kaiser Road north of Lake Tamarisk Road. However, these impacts would be temporary in nature, and mitigation measures would reduce effects to the maximum extent feasible.
- **Recreation.** The project would be visible from wilderness areas in the Coxcomb Mountains during construction, operation, and decommissioning. A wide range of mitigation measures for air, noise, and visual resources would minimize these effects to the maximum extent feasible.
- **Special Designations.** The project would create adverse impacts to lands with special designations in the vicinity of the project, including Joshua Tree National Park. Mitigation measures for visual resources, air resources, noise, night lighting, and recreation would minimize these impacts to the maximum extent feasible.
- **Visual Resources.** The Project would, in connection with other projects, create impacts from the conversion of a natural desert landscape to a landscape dominated by industrial character. Additionally, long-term land scarring would potentially follow project decommissioning. The high-profile PV panels contemplated for the Project's northern and southern parcels would have strong visual contrast with the surrounding landscape and would be visible from proximate wilderness areas and scenic vistas. Several mitigation measures would reduce visual impacts to the maximum extent feasible. The visual resource impact includes impacts on the natural night skies.

3.1.1 Respond to Purpose and Need

The approved DHSP meets the BLM's purpose and need, as set forth in the FEIS and Section 1.1.2 of this ROD, because it responds directly to the Applicant's ROW application. Approval of the project will further the development of environmentally responsible renewable energy and assist in meeting other management objectives, while minimizing impacts to cultural, biological, visual, groundwater, air quality, and other resources. As explained in the FEIS, the construction, operation, maintenance, and decommissioning activities associated with the DHSP, either singularly or with mitigation, are in conformance with the application regulations and following land use plans and BLM policies:

- BLM CDCA Plan of 1980, as amended
- BLM policy and guidance for issuing ROW grants.

3.1.2 Achieve Goals and Objectives

The approved DHSP project will meet the BLM purpose and need, help meet power demand, and help achieve Federal and State objectives for renewable energy development. The DHSP complies with CDCA Plan objectives for MUC M and MUC L land use designations. Additionally, the BLM consulted with Native American tribes and other responsible parties to incorporate mitigation strategies into the DHSP to minimize impacts to biological, visual, cultural and other resources. The Selected Alternative best minimizes environmental impacts while also maximizing the renewable energy production potential of the site.

3.1.3 Required Actions

Required actions have been completed prior to issuance of this ROD, including the conclusion of:

- Consultation with USFWS under Section 7 of the Endangered Species Act of 1973
- Consultation with USFWS under the Bald and Golden Eagle Protection Act
- Consultation with Tribal Governments and the State Historic Preservation Office (SHPO) under Section 106 of the NHPA.

3.1.4 Incorporation of CDCA Plan Management Considerations

For the reasons set forth herein, the CDCA Plan amendment is warranted. The record indicates that the DHSP can be constructed on BLM-administered lands, and that the DHSP will result in a minimum number of significant, immitigable impacts to cultural and environmental resources after the required Applicant proposed and Project mitigation measures have been implemented. The CDCA Plan amendment applies to the public lands within the boundary of the DHSP solar facility site and gen-tie alignment as shown in Figures ROD-1 and ROD-2. The approval of the project location based upon NEPA analysis (see Section 3.1.7) and the criteria discussed herein satisfies the requirements of the CDCA Plan related to the approval of solar generation facilities and high-voltage transmission lines outside of designated energy corridors.

3.1.5 Statement of No Unnecessary or Undue Degradation

Congress declared that the public lands be managed for multiple use and sustained yield and in a manner to protect certain land values, provide food and habitat for species, and provide for outdoor recreation and human occupancy and use (43 U.S.C. 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, taking into consideration the long-term needs of future generations without permanent impairment of the lands (43 U.S.C. 1702(c)). The BLM manages public lands 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 U.S.C. 1711 to 1722, and 1731-1748).

The FLPMA specifically provides that in managing the use, occupancy, and development of the public lands, the Secretary shall take any action necessary to prevent unnecessary or undue degradation of the lands (43 U.S.C 1732(b)). The process for siting and evaluating the DHSP has included extensive efforts on the part of BLM, the Applicant, the County of Riverside, the National Park Service, the USFWS, the SHPO, other agencies, and members of the public to identify a project that accomplishes the purpose and need while preventing any unnecessary or undue degradation of the lands. These efforts have included:

- Siting the proposed facilities in a location in which solar power development can be authorized;
- Incorporation of mitigation measures to avoid, minimize, and compensate for impacts to cultural, biological, groundwater, visual, air quality, and other resources;
- Evaluation of project alternatives that could meet the purpose and need for the proposed action, but result in the avoidance or minimization of impacts.

In addition, BLM ROW regulations at 43 CFR 2805.11(a)(1) to (5) require the BLM to limit the grant to those lands which:

1. Will be occupied with authorized facilities;
2. Are necessary for constructing, operating, maintaining, and decommissioning the authorized facilities;
3. Are necessary to protect 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 Sections 1.3.1 and 3.1.4 of this ROD are necessary to accommodate the DHSP. The DHSP 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 an NTP is secured; is issued for a period of 30 years, subject to potential renewal and periodic review; contains diligence and bonding requirements to further protect public land resources; and provide for public health and safety and the protection of the environment and public lands. This approval provides that public land will be occupied only with authorized facilities and only to the extent necessary to construct, operate, maintain, and decommission the DHSP. The terms and conditions include compliance with this ROD, the Final EIS, the BO, the MOA, and the ROW grant, as they may be amended.

The foregoing provides the basis for this ROD's determination that the DHSP and associated facilities will not unnecessarily or unduly degrade the public lands.

3.1.6 Statement of Technical and Financial Capability

The FLPMA and its implementing regulations provide the BLM the authority to require a project application to include information on an applicant's technical and financial capability to construct, operate, and maintain the solar energy facilities and transmission lines applied for (43 CFR 2804.12(a)(5)). This technical capability can be demonstrated by international or domestic experience with solar energy project or other types of electric energy-related projects on either Federal or non-Federal lands. Financial capability can be demonstrated by the disclosure of the availability of sufficient capitalization to carry out the proposed development.

The EDF's statement of technical and financial capability is provided in the application for a ROW. This capability includes the following, as described by the Applicant.

- The EDF is a subsidiary of EDF Energies Nouvelles, which has a presence in 9 European countries and the U.S. Non-U.S. gross installed capacity includes over 1,400 MW of renewable energy. The EDF Energies Nouvelles is a wholly owned subsidiary of EDF (Electricité de France), one of the largest energy companies in the world. This relationship gives EDF strong financial and technical resources, synergies, expertise and international reach. EDF is global energy company with a credit rating of "Aa3" (Moody's) or A+ (Fitch Rating).
- Since 1999, EDF has developed and installed 2,191 MW of renewable generation capacity and operations and maintains over 7,271 MW.

- The EDF has installed or is actively constructing 149 MW of solar generation capacity in the United States.
- The EDF has extensive experience with renewable energy project financing. In the last 5 years, EDF has invested over \$500 million in equity, and has debt financed more than \$1.5 billion in renewable energy projects.
- The EDF will provide or secure all necessary capital through the development, construction, and operation phases of the proposed project. The formal financing process will be undertaken immediately upon the execution of a power purchase agreement.

3.1.7 Adequacy of NEPA Analysis and the Selected Alternative

The environmental effects of the solar facility configuration contemplated by the Selected Alternative, which represents a combination of Alternatives 4 and 7, are within the spectrum of impacts analyzed completely in the EIS. As demonstrated by the analysis in Chapters 3 and 4 of the EIS, all of the ground disturbance, temporal, spatial, and environmental impacts of the Selected Alternative are substantially similar, with no new material impacts, to those analyzed for the proposed solar facility (Alternative 4), and therefore, the BLM has determined that the Selected Alternative is within the range of alternatives analyzed in the Final EIS. The only area where the Selected Alternative and the Proposed Action (Alternative 4) are different is with respect to the visual impacts of the Project due to the relative height of the panels authorized on the southern parcel (i.e., Alternative 4 contemplated low-profile panels on the southern and northern parcels and Alternative 7 contemplated no panels on the southern parcel and high-profile panels on the northern, whereas the Selected Alternative contemplates high-profile panels on both parcels). As explained below, the BLM has determined that even with that difference those affects are nevertheless within the spectrum of alternatives and impacts analyzed in the existing NEPA analysis.

As documented in the EIS, the visual impact of the higher panels from JTNP is indistinct from the visual impact of the shorter panels (see Figure 4.19-1B compared with Figure 4.19-1C in Appendix A of the FEIS). As shown in Figures 3.19-1a and 3.19-1c, the high profile panels can be viewed at a very small number of additional locations compared with the low profile panels as the relevant viewsheds are substantially similar. From Kaiser Road (KOP 3 in the EIS) the high-profile panels (see Figure 4.19-3D) would be substantially more evident in the foreground compared with the lower profile panels (Figure 4.19-3B). However, viewership from this location is very low. Moreover, while the layout of Alternative 4 (i.e., panels on the northern and southern parcels) was not specifically simulated with Alternative 7's high-profile panels from KOP 3, the simulation of the visual impacts of the higher profile panels from KOP 7 (Figure 4.19-3D) provides a proxy for the visual impacts from the higher profile panels on the southern parcel even though that specific scenario was not simulated. The BLM based this conclusion on the fact that KOP 7, which depicts the impacts of the high-profile panels, shows a vantage point very close to Kaiser Road that is analogous to the viewership from KOP 3, and therefore is representative of the visual impacts of the Selected Alternative (which would include high-profile panels in the southwestern portion of the project site) from a more southerly location on Kaiser Road as well.

In connection with its approval of the Selected Alternative, the BLM imposed buffers to mitigate impacts to crucifixion thorn plants on the northern and southern parcels. These buffers were

developed based on BLM's review/analysis of Alternative 6 which considered the elimination of the entire 155-acre southern parcel and a 9-acre portion of the northern parcel that was identified in Alternative 6 in an effort to avoid several individual crucifixion thorn plants (MM VEG-7). Based on its review, the BLM has determined that it can safely and completely mitigate all adverse impacts to this plant through mitigation buffers without footprint redesign.

Finally, the Selected Alternative includes a 47-acre portion of the Palen-Ford Wildlife Habitat Management Area (WHMA), as shown in Figure ROD-3. The Palen-Ford WHMA includes 85,000 acres and was specifically established to protect the desert dunes and playas habitats and the Mojave fringe-toed lizard (FEIS at p.3.4-6). The 47-acre portion of the WHMA within the DHSP footprint does not provide dune or playa habitat, and does not support Mojave fringe-toed lizards (FEIS at p.3.4-12). When the neighboring Desert Sunlight Solar Farm Project was approved by the BLM in August of 2011, a portion of the Palen-Ford WHMA was approved for use as a solar facility, resulting in creating a 47-acre peninsula of WHMA between an approved solar project and a proposed solar project (Figure ROD-3). With the construction of the Desert Sunlight Solar Farm Project, the 47-acre portion of the WHMA within the DHSP footprint provides very little habitat value, particularly for dunes, playas, and Mojave fringe-toed lizard. The BLM has determined that the benefits associated with renewable energy production and GHG reduction of the DHSP are sufficient to justify granting a ROW and amending the CDCA Plan to allow the DHSP solar facility within this 47-acre portion of the WHMA.

3.1.9 Summary of Conclusions

The Selected Alternative provides for the generation of more renewable energy and the displacement of more greenhouse gas emissions than the agency-preferred alternative as presented in the FEIS. The direct and indirect impacts of the project on the southern parcel would be mitigated to the extent feasible through adoption of the mitigation measures in the FEIS, and the inclusion of this portion of the project would not result in substantially greater cultural and environmental effects than the Agency's preferred alternatives. The Selected Alternative, which is adjacent to a previously approved large solar site, represents a balance of renewable energy production and cultural and environmental protection for the DHSP site.

All the mitigation measures included in the FEIS as amended by this ROD, BO, MOA, and the DHSP's MMRP are adopted and provided in Appendices 1 through 4 of this ROD. All BLM-identified mitigation measures have been adopted in this ROD either as original proposed or as modified. These mitigation measures ensure that adverse effects to cultural and environmental resources are avoided, minimized, or compensated to the extent feasible. Mitigation compliance will be monitored by the BLM.

3.2 Relationship to BLM and Other Agency Plans, Programs, and Policies, Including Consultation

3.2.1 Endangered Species Act Section 7

Section 7 of the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.) requires Federal agencies to consult with USFWS to ensure that the actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of a threatened or endangered terrestrial species or result in the destruction or adverse modification of critical habitat for these species. Under

ESA Section 7(b)(3), USFWS provides a written statement, the BO, setting forth the agency's opinion, and a summary of the information on which the opinion is based detailing how the proposed action affects the species or its critical habitat for the entirety of the Proposed Action. If jeopardy or adverse modification is found, the agency suggests reasonable and prudent alternatives that can be taken in implementing the agency action.

The BLM engaged the USFWS in the ESA Section 7 consultation process related to the DHSP concurrently with the NEPA review process. As explained in Sections 3.3 and 3.4 of the FEIS, biological surveys for federally-listed species were completed for the proposed project site and the proposed transmission alternatives prior to preparation of this FEIS.

The BLM submitted a Biological Assessment (BA) and a request for formal ESA Section 7 consultation specific to the federally threatened Mojave desert tortoise (*Gopherus agassizii*) and its designated critical habitat on the proposed project to USFWS on May 8, 2012. Consultation was initiated on June 13, 2012 with a letter from USFWS to BLM (see Appendix C.19 of the Final EIS). In this letter, USFWS requested clarifying information on the project description prior to August 10, 2012. The supplemental clarifying information was submitted to USFWS in the form of a Supplement to the BA on July 27, 2012. Following review of the BA and supplemental clarifying information, the USFWS issued a BO, which is attached as Appendix 3 of this ROD, specifying the measures that must be implemented.

The BO concluded that the construction, operation, and maintenance of the DHSP could result in direct and indirect effects to the desert tortoise, including

- Direct mortality from project equipment and construction activities
- Direct mortality due to increased traffic and road access
- Translocation of tortoises from the DHSP site
- Loss of habitat used to support life history requirements
- Degradation of habitat by the spread of nonnative plant species
- Predation by common ravens and increase of raven subsidies
- Loss or fragmentation of habitat linkages important to maintaining population and genetic connectivity
- Edge effects including noise and lighting from construction and operations
- Take of desert tortoise individuals including as many as two juveniles, up to three adult or subadult, and an unquantifiable number of eggs
- Acquisition, management, and permanent protection of suitable desert tortoise habitat, as required in Mitigation Measure MM VEG-6, may facilitate a reduction in the number and magnitude of threats and mortality mechanisms in areas not currently protected within the Colorado Desert Recovery Unit and would ensure no net loss of habitat for the species

The BO concluded that the DHSP is not likely to jeopardize the continued existence of the desert tortoise, appreciably diminish the reproductive capacity of the species, reduce the ability of the species to meet recovery objectives and goals, or result in substantial adverse effects to critical habitat throughout the species' range.

The terms and conditions of the BO include:

Measure 1

- 1.1 To ensure that the measures proposed by BLM and applicant are effective and properly implemented, BLM and applicant must contact the Service immediately if it becomes aware that a desert tortoise has been killed or injured as a result of project activities. At that time and in coordination with the Service, BLM must review the circumstances surrounding the incident to determine whether additional protective measures are required. Project activities may continue pending outcome of the review, provided the conservation measures included as part of the proposed action (see “Conservation Measures” section of BO) and the terms and conditions in this biological opinion have been and continue to be fully implemented;
- 1.2 If more than one subadult or adult desert tortoise is killed or injured as a result of any construction activities covered by this biological opinion for the Project site, gen-tie line and associated access road, and the perimeter security fence, BLM must reinitiate consultation on the proposed action;
- 1.3 If more than one subadult or adult desert tortoise is directly killed or injured in any calendar year as a result of any O&M activities covered by this biological opinion along the perimeter security fence of the solar facility, or the gen-tie line and associated access road, BLM must reinitiate consultation on the proposed action; and
- 1.4 If more than three subadult or adult desert tortoises are identified for translocation during clearance surveys of the Project site, BLM must reinitiate consultation on the proposed action. As described above, the identification of more than these numbers of subadult or adult desert tortoises would also indicate that the anticipated level of take of juveniles and eggs will be exceeded, requiring reinitiation of consultation. This term and condition only applies to clearance of the project site for construction and does not apply to the short distance movement of desert tortoises out of harm’s way during activities that occur along the linear components.

Measure 2

- 2.1 Desert tortoises that are determined to be sick or injured may be relocated to an appropriate facility within California. The applicant shall submit to CDFW a written request indicating the number of desert tortoises to be relocated, the reason for relocating them (i.e., the nature of the disease or injury), the proposed facility to which the desert tortoises will be relocated, and the date on which they are proposed to be relocated. The CDFW will provide a written response to each such request indicating, on a case-by-case basis, whether the relocation is authorized.

Implementation of terms and conditions to minimize take as defined in the BO is mandatory and a condition of approval of this ROD and the Project’s ROW grant.

3.2.2 National Historic Preservation Act Section 106

Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470) requires Federal agencies to take into account the effects that their approvals and federally funded activities and

programs have on historic properties. "Historic properties" are those properties that are included in, or eligible for, the National Register of Historic Places (36 CFR 800.16(1)(1)).

The Native American Heritage Commission (NAHC) maintains two databases to assist cultural resources specialists in identifying cultural resources of concern to California Native Americans, referred to here as ethnographic resources. The NAHC Sacred Lands database has records for places and objects that Native Americans consider sacred or otherwise important, such as cemeteries and gathering places for traditional foods and materials. The NAHC Contacts database has the names and contact information for individuals, representing a group or themselves, who have expressed an interest in being contacted about development projects in specified areas. The applicant requests information from the NAHC on the presence of sacred lands in the vicinity of a proposed project and also requests a list of Native Americans to whom inquiries would be made to identify both additional cultural resources and any concerns the Native Americans may have about a proposed project.

Chambers Group, on behalf of the Applicant, contacted the NAHC in October of 2011 to obtain information on known cultural resources and traditional cultural properties and to learn of any concerns Native Americans may have about the DHSP project site. The NAHC responded on October 5, 2011 with the information that the Sacred Lands File (SLF) database failed to indicate the presence of Native American cultural resources within the DHSP's Area of Potential Effects (APE). The NAHC also forwarded a list of Native American groups or individuals with traditional ties to the project area. This list can be found in Appendix I.

The BLM initiated formal, government-to-government tribal consultation on October 4, 2011. On October 10, 2012, the BLM held a meeting of the consulting parties for the Section 106 process for the DHSP. Representatives from the Agua Caliente Band of Cahuilla Indians, Augustine Band of Cahuilla Indians, Cabazon Band of Mission Indians, Colorado River Indian Tribes, Fort Mojave Indian Tribe, San Manuel Band of Mission Indians, Soboba Band of Luiseno Indians, and Twenty-nine Palms Band of Mission Indians attended the meeting. The other consulting parties in attendance at the October 10 meeting included the Applicant and the County of Riverside.

In accordance with 36 CFR 800.6, a Memorandum of Agreement (MOA) has been developed for this project as a part of the Section 106 process. The MOA is among the BLM, SHPO, and the Applicant, and was executed on February 20, 2013. The Advisory Council on Historic Preservation was invited to participate in the MOA, but declined to do so. The MOA includes a list of historic properties located within the APE, requires that a Historic Property Treatment Plan be developed and implemented prior to the issuance of a NTP, provides for review by interested parties of draft documents resulting from implementation of the Historic Property Treatment Plan, provides for the management of unanticipated discoveries of cultural resources, addresses treatment of Native American human remains, and includes reporting requirements. In addition, the MOA provides a phased approach to the identification and evaluation where access to private land to conduct archaeological surveys has not been granted. The NRHP eligibility evaluations and treatment of historic properties would be carried out before project construction. Implementation of the MOA is mandatory and a condition of approval of this ROD.

3.2.3 Tribal Consultation

As noted above, the BLM initiated formal, government-to-government tribal consultation at the earliest stages of project planning by letter on October 4, 2011 (Kalish 2011). The Palm Springs-South Coast Field Office of the BLM sent letters to 15 Indian tribes, including those identified by the NAHC. The letter requested assistance in identifying any issues or concerns that a tribe might have about the project, including identifying places of religious and cultural significance that might be affected by the proposed project. The letter further requested that each Tribal Government identify those tribal representatives who have been designated to consult with BLM on this project.

Since that time, the BLM has continued consultation with Tribal governments through additional correspondence, communication, meetings, and provision of other project information.

The 15 Tribes consulted on the DHSP were the: Agua Caliente Band of Cahuilla Indians, Augustine Band of Cahuilla Mission Indians, Cabazon Band of Mission Indians, Cahuilla Band of Mission Indians, Chemehuevi Indian Tribe, Cocopah Indian Tribe, Colorado River Indian Tribes, Fort Mojave Indian Tribe, Fort Yuma Quechan Indian Tribe, Morongo Band of Mission Indians, Ramona Band of Mission Indians, San Manuel Band of Mission Indians, Soboba Band of Luiseno Indians, Torres Martinez Desert Cahuilla Indians, and the Twenty-Nine Palms Band of Mission Indians.

On May 9, 2012, the BLM and representatives from the Augustine Band of Mission Indians and the Colorado River Indian Tribes attended a field visit to the Project site. During that visit, tribal representatives expressed the concerns about the geomorphological nature of the project site, and the possibility of subsurface archaeological materials. The archaeological report was approved by the BLM in May 2012. A letter was sent to the Tribes on June 4, 2012 informing them of the availability of the report. Agua Caliente Band of Mission Indians, Colorado River Indian Tribes, and Fort Yuma Quechan Tribe requested a copy of the report. Copies were sent on August 2, 2012, June 11, 2012, and October 22, 2012 respectively. No comments or feedback was received on the report. The project was discussed with the Fort Yuma Quechan Tribe on September 26, 2012. The BLM formally notified the Tribes of its intent to develop a MOA for the Project, and invited them tribes to participate, on September 11, 2012. Throughout the process the BLM Field Manager and staff have actively responded to all requests to meet with tribal leaders and staff.

Additional documentation regarding that consultation is provided in Appendix I of the FEIS. Consultation with Indian tribes, and discussions with tribal organizations and individuals, has revealed concern about the importance and sensitivity of cultural resources near the DHSP project site, concern about cumulative effects to cultural resources and landscapes, the potential for the discovery of currently unknown resources, and the potential effects of the Project on the North Chuckwalla Mountains Petroglyph District. As explained in the FEIS and MOA the BLM has determined that the project will have an adverse effect on historic properties, and the approved MOA contains measures that resolve those effects to the extent practicable. For example, the MOA includes specific provisions address impacts to the North Chuckwalla Mountains Petroglyph district and requires the development of a plan to manage post-review discoveries and unanticipated effects. Pursuant to the MOA, the BLM will continue to work

with Tribal governments and the Native American Heritage Commission for the purpose of protecting cultural, sacred, and burial sites that may be impacted by the Project.

3.2.4 Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act of 1940 (BGEPA) (16 USC 668, enacted by 54 Stat. 250) protects bald and golden eagles by prohibiting the taking, possession, and commerce of such birds and establishes civil penalties for violation of this act. Under the BGEPA, take includes “disturb,” which means “to agitate or bother a bald eagle or a golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.”

The BLM coordinated with USFWS regarding the DHSP’s potential to take golden eagles from just after the issuance of the NOI through the preparation of the FEIS. The Applicant has prepared a Draft BBCS (included as Appendix C-9 of the FEIS) to minimize effects on golden eagles. Per Instructional Memorandum 2010-156, a letter of concurrence must be received from the USFWS that addresses the adequacy of the BBCS prior to issuance of a NTP. The Applicant is not seeking a permit under the BGEPA as take is not anticipated.

3.2.7 United States Army Corps of Engineers

Section 404 of the Clean Water Act established a permit program administered by the US Army Corps of Engineers (USACE) regulating the discharge of dredged or fill material into waters of the United States, including wetlands. The Applicant coordinated with the USACE regarding potential project approvals and any associated NEPA regulatory compliance requirements. On May 29, 2012, the USACE provided its Jurisdictional Determination that the DHSP site has no waters of the United States (see Appendix C.11 of the FEIS). Additionally, the Colorado River Basin Regional Water Quality Control Board (Region 7) has indicated that 401 Water Quality Certification is not necessary (see Appendix C.11 of the FEIS) in connection with the development of the project.

3.2.8 United States Environmental Protection Agency

The USEPA provided scoping comments on the NOI, comments on the DEIS which were addressed in the FEIS, and additional comments on the FEIS. The FEIS comments and resolution of the concerns contained therein are summarized here.

Table 1. USEPA Concerns and Resolutions

Concern	Resolution
Requests that BLM commit to requiring Tier 4 off-road engines greater than 750 horsepower	BLM is committed to working with the Applicant to minimize emissions in a manner that is technologically and financially feasible.
Requests that BLM work further with South Coast Air Quality Management District to ensure that all feasible mitigation measures to reduce air quality impacts to the greatest extent possible be imposed on the project	BLM will ensure that all air quality mitigation, including dust management, is coordinated appropriately, and, as required receives concurrence from, the SCAQMD.

Table 1. USEPA Concerns and Resolutions

Concern	Resolution
Requests resolution about whether the project will adversely impact downstream flows due to changes to natural washes, excavation of sediment, or increased sedimentation due to vegetation clearing, disc-and-roll, or grading; further requests that BLM commit to specific details of surface hydrological plans required in mitigation measure WAT-4; recommends that any drainage plans preserve on-site hydrological functions by utilizing existing natural drainage channels, distributing photovoltaic panel support structures to avoid desert dry wash woodlands, and minimizing placement of support structures in ephemeral washes to the greatest extent practicable.	BLM is committed to an aggressive monitoring program for all aspects of mitigation that are designed to minimize any off-site or downstream flow impacts. In addition, BLM will require a third-party consulting engineering review of the mandatory surface water protection plan (see Mitigation Measure MM WAT-4 in Appendix 3 of this ROD). BLM will ensure that on-site hydrologic functions are preserved to the maximum extent practicable.
Requests that BLM ensure that sufficient land to adequately compensate for environmental impacts to resources such as state jurisdictional waters, desert dry wash woodlands, and desert tortoise is available. Recommends that the ROD quantify available lands for compensatory habitat mitigation; specify the timeline to ensure adequate compensatory mitigation has been identified, approved, and purchased prior to commencement of construction; and describe the implications for project construction if the timeline is not met.	Compensatory habitat mitigation plans are a requirement of BLM and its partner agencies. With regard to desert tortoise, by conducting a desktop analysis evaluating landownership in conjunction with desert tortoise habitat models, the USFWS has determined that there is an adequate amount of privately owned land with desert tortoise habitat available for acquisition. Non-profit conservation groups and for-profit mitigation banking organizations are actively identifying and acquiring lands targeted for offsetting impacts to desert tortoise habitats associated with renewable energy projects in this region (USFWS 2012, see page 40 of Appendix 1 of this ROD).
Recommends that the ROD include the Final BO and include an update on consultation with USFWS to protect sensitive biological resources, including habitat connectivity.	BLM has completed this task, as described in Section 3.2.1 and the BO is included as Appendix 1.
Recommends that all mitigation measures be adopted in the ROD and included as conditions for any project approvals.	BLM concurs.

3.2.10 National Park Service

The NPS, Joshua Tree National Park, is a Cooperating Agency for preparation of the EIS. The NPS and the BLM signed an MOU that defines the relationship of the two Agencies, and identifies the NPS as a cooperating agency with the BLM. The MOU was fully executed on February 24, 2011. The MOU is included as Appendix L of the FEIS. Although NPS has no discretionary decision to issue on the DHSP, NPS has an interest in land development projects that occur within the airshed and viewshed of park resources. On April 20, 2011, BLM met with NPS representatives in Palm Springs, CA, to discuss the project and the Cooperating Agency relationship. The NPS was invited by BLM to weekly phone conferences during the development of the EIS process. The BLM met with NPS again on September 13, 2011, to discuss incorporation of NPS comments on the administrative draft of the EIS. Comments were received from NPS staff and incorporated into the Draft EIS. The BLM again met with NPS representatives in Joshua Tree, California, on June 20, 2012, to discuss the Park's preliminary response to the Draft EIS. The Park also submitted formal written comments, which are presented in Appendix M of the FEIS (see comment letter A004). Comments from NPS staff were accepted and incorporated into the Final EIS. As explained above, the Applicant has finalized a Cooperative Agreement with the NPS regarding the funding of mitigation and monitoring measures related to Joshua Tree National Park (MM SD-1, MM SD-2, and MM SD-

3). Compliance with the terms and conditions of the Agreement, which includes funding for the park's monitoring activities and boundary management, has been made a condition of the Project's ROW grant.

3.2.11 State, Regional, and Local Agencies

3.2.11.1 Governor's Consistency Review

Pursuant to 43 C.F.R. § 1610.3-2, prior to the approval of a proposed resource management plan, or amendment, the BLM State Director must submit to the State Governor the proposed plan or amendment and identify any known inconsistencies with State or local plans, policies or programs. The Governor has 60 days in which to identify inconsistencies and provide recommendations in writing. If the Governor's written recommendations include changes in the proposed plan amendment that were not raised during the public participation process, then the State Director must provide the public with an opportunity to comment on the recommendations. If the BLM State Office does not accept the Governor's recommendations, then the BLM State Director must notify the Governor in writing and the Governor has 30 days to submit a written appeal. The BLM acknowledges that the Governor's Office of Planning and Research did not identify any "inconsistencies" between the proposed plan amendments and any state or local plans, policies or programs. Consistent with communications from the Governor's Office, the BLM will continue to work with the Colorado River Board and the water providers to resolve any outstanding issues related to water supply for the project and potential impacts to groundwater and Colorado River water.

3.2.11.2 California Department of Fish and Wildlife

California Endangered Species Act (CESA) review and approval is required for impacts to State-listed species. Focused biological surveys for sensitive species have been conducted for all potential project areas. The CDFW (formerly California Department of Fish and Game) is expected to complete a Consistency Determination based upon USFWS's Biological Opinion. The CDFW submitted formal written comments on the Draft EIS, which are presented in Appendix M of the FEIS (see comment letter A012). Comments from CDFW staff were accepted and incorporated into the Final EIS. The BLM will continue to work with CDFW regarding plants and animals potentially impacted by the Project.

3.2.11.3 County of Riverside

The County of Riverside has discretionary authority to issue a Public Use Permit (PUP) and an Encroachment Permit for the DHSP gen-tie. As allowed by the California Environmental Quality Act (CEQA) Guidelines Section 15221, the County of Riverside intends to use the EIS to provide the environmental review required for its decision regarding the approval of the gen-tie under CEQA. The County of Riverside and the BLM have signed a Memorandum of Understanding (County MOU) that defines the relationship of the two agencies, and identifies the County of Riverside as a cooperating agency with the BLM. The County MOU was fully executed on June 5, 2012. The County MOU is included as Appendix L of the FEIS. Following preparation of the EIS by the BLM, the County of Riverside will determine whether the EIS complies with the requirements of CEQA and whether it will be used to support its decision on the gen-tie. The County of Riverside was invited by BLM to weekly phone conferences as the

EIS was developed. The County was invited to participate, and participated in, the development of the EIS from the date of the NOI. The BLM will continue to work with Riverside County regarding land use and planning designations and regulations and will also work with local emergency agencies related to fire mitigation strategies.

3.3 LUP Conformance and Consistency

3.3.1 Conformance with the CDCA Plan

The 25-million-acre CDCA was designated by Congress in 1976 through the FLPMA of 1976. The area, which encompasses portions of the Mojave, Sonoran, and Great Basin Deserts, currently contains approximately 12 million acres of BLM-administered public lands. The 1980 CDCA Plan, as amended, serves as the land use guide for the management, use, development and protection of public lands within the CDCA. Public lands within the CDCA are managed based on the concepts of multiple-use, sustained yield, and maintenance of environmental quality.

The goal of the CDCA Plan is to provide for the use of the public lands and resources of the CDCA, including economic, educational, scientific, and recreational uses, in a manner that enhances without diminishing the environmental, cultural, and aesthetic values of the desert and its productivity. This goal is to be achieved through the direction given for management actions and resolution of conflicts outlined in the CDCA Plan. Direction is provided for BLM-administered public lands in four multiple-use classes. The multiple-use classifications describe the type and level or degree of use that is permitted within geographic areas. Further refinement of direction of management of resources within the CDCA is expressed in the goals for motorized vehicle access, geology, energy production and utility corridors and in certain site specific Plan decisions such as Areas of Critical Environmental Concern (ACECs).

While renewable energy development is allowed within three of the four the multiple-use class designations created by the Plan guidelines of the CDCA Plan, the Plan requires a plan amendment for renewable energy projects not previously identified in the Plan and/or transmission facilities located outside of designated utility corridors.

3.3.2 Need for a CDCA Plan Amendment

Per the CDCA Plan, a plan amendment is required in connection with the DHSP because the project is not currently identified within the Plan; therefore, Plan Amendment is required to include that site as a recognized solar generation location within the planning boundary. Approval of this power generation site will result in an amendment to the Energy Production and Utility Corridors Element. The specific amendment will state that the Desert Harvest Solar Project is allowed. Similarly, for transmission lines above 161 kV proposed outside a designated corridor, either the CDCA Plan could be amended to designate a new corridor or the CDCA Plan could be amended to 'allow' the transmission line outside a corridor. Portions of gen-tie line Alternatives B through E would not be within a currently designated corridor and a plan amendment would be required to allow the development of these gen-tie line alternatives. The specific amendment will state that the Desert Harvest Solar 220 kV Gen-Tie is allowed outside a designated corridor.

The CDCA Plan planning criteria are the constraints and ground rules that guide and direct the development of the Plan Amendment. They ensure that the Plan Amendment is tailored to the identified issues and ensure that unnecessary data collection and analyses are avoided. As specified in Chapter 7, Plan Amendment Process, there are three categories of Plan Amendments, including:

- Category 1, for proposed changes that will not result in significant environmental impact or analysis through an Environmental Impact Statement;
- 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 DHSP requires a Category 3 amendment.

3.3.3 Required CDCA Plan Determinations

The Plan Amendment process is outlined in Chapter 7 of the CDCA Plan. In analyzing an applicant's request for amending or changing the Plan, the BLM State Director, California State Office, will:

- Determine if the request has been properly submitted and if any law or regulation prohibits granting the requested amendment;
- 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;
- Determine the environmental effects of granting and/or implementing the applicant's request;
- Consider the economic and social impacts of granting and/or implementing the applicant's request;
- Provide opportunities for and consideration of public comment on the proposed amendment, including input from the public and from Federal, State, local, and tribal government agencies; and
- Evaluate the effect of the proposed amendment on BLM management's desert-wide obligation to achieve and maintain a balance between resource use and resource protection.

The specific determinations required for the Plan Amendment evaluation are discussed in detail below in Table 3.22-1, Plan Amendment Determinations. The EIS for the DHSP acts as the mechanism for evaluating both the proposed Project and proposed plan amendments. The factors specified in CCR Title 20, Appendix B are included within the scope of the analysis presented in the EIS.

Table 2. CDCA Plan Amendment Determinations

Determinations	Conformance
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 ROW grant was properly submitted, and this EIS acts as the mechanism for evaluating and disclosing environmental impacts associated with that application. No law or regulation prohibits granting either the ROW or the associated plan amendment.
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 available 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 solar facility does not require a change in the Multiple-Use Class classification of either Project or gen-tie line site.
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.
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.
Provide opportunities for and consideration of public comment on the proposed draft plan 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 September 15, 2011, Vol. 76, No. 179 Fed. Reg. 57073-57074. Public scoping meetings were held in October 2011 and public and agency comment opportunities are provided during the EIS process. A Notice of Availability for public and agency review was published on April 18, 2012, which initiated a 90-day public comment period for the Draft EIS and Draft Plan Amendment. The comment period ran from April 18, 2012 to July 17, 2012. Additionally, public hearings were held on May 14, 2012. A Notice of Availability for the Final EIS and proposed Plan Amendment was published in the Federal Register on November 13, 2012, which initiated a 30-day protest period on the proposed plan amendment to the Director of the BLM in accordance with 43 CFR 1610.5-2. A total of 6 protests were received, all protests were denied.

Table 2. CDCA Plan Amendment Determinations

Determinations	Conformance
Evaluate the effect of the proposed amendment on BLM management's desert-wide obligation to achieve and maintain a balance between resource use and resource protection.	The balance between resource use and resource protection is evaluated within the EIS. Title VI of FLPMA 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 ROWs for generation and transmission of electric energy. The acceptability of use of public lands within the CDCA for this purpose is recognized through the Plan's allowance of solar generating facilities within Multiple-Use Class M lands after NEPA requirements are met. The purpose of the EIS is to identify resources which may be adversely impacted by approval of the proposed project, evaluate alternative actions which may accomplish the purpose and need with a lesser degree of resource impacts, and identify mitigation measures and Best Management Practices (BMPs) which, when implemented, would reduce the extent and magnitude of the impacts and provide a greater degree of resource protection.

3.3.4 MUC Guidelines

The ROW grant required for the solar facility site is within an area that is designated as Multiple-Use Class M (Moderate Use) according to the CDCA Plan (BLM 1980a, as amended), and the 1988 Plan Amendments (BLM 1989). The Multiple-Use Class M designation is intended to control balance between higher intensity use and protection of public lands. Public lands designated as Class M are managed generally to provide for a wide variety of present and future uses such as mining, livestock grazing, recreation, energy, and utility development. Class M management is also designed to conserve desert resources and to mitigate damage to those resources which permitted uses may cause.

The Energy Production and Utility Corridors Element of the CDCA Plan (BLM 1980a, as amended) recognizes the CDCA as an area where energy production facilities and utility corridors could be located. The element outlines BLM's management decisions for designation and implementation of a network of planning (utility) corridors to meet the projected utility needs through the year 2000 and siting procedures for power plants and alternative energy sources. A site-specific NEPA analysis is required for all applications for a ROW grant for any transmission line, regardless of whether the transmission line is in a corridor. In addition, implementation decisions outlined in the element indicate that an amendment to the CDCA Plan is required for all power generation facilities not specifically identified in the CDCA Plan.

Sixteen joint-use planning (utility) corridors varying in width from 2 to 5 miles are identified in the CDCA Plan, as amended. These corridors are intended to include new electrical transmission lines of 161 kV or above, all pipelines with diameters greater than 12 inches, and major aqueducts or canals for inter-basin transfers of water. According to the CDCA Plan, applications for utility ROWs will be encouraged to use designated corridors by BLM management.

Because solar electric facilities are allowed under Multiple-Use Class M designations, the DHSP is consistent with the CDCA multiple-use class designations and does not require a plan amendment for reclassification of the project site for the solar facility. However, the project does require a plan amendment to identify the site as suitable for solar energy development. The gen-tie line will also be located on Class M and Class L lands. Electrical transmission and distribution facilities may be allowed on Class M and Class L outside designated utility corridors after NEPA requirements are met and a plan amendment is approved.

3.3.5 CDCA Plan Elements

3.3.5.1 CDCA Plan Decision Criteria

The Decision Criteria to be used for approval or disapproval of the proposed amendment require that the following determinations be made by the BLM State Director:

- The proposed amendment is in accordance with applicable laws and regulations;
- The proposed amendment will provide for the immediate and future management, use, development, and protection of the public lands within the CDCA.

The BLM State Director will base the rationale for these determinations on the principles of multiple use, sustained yield, and maintenance of environmental quality as required under FLPMA. Multiple use is defined as management of public lands and their resource values in a combination that best meets the needs of present and future Americans, using some land for less than all of the resources, taking into account balanced and diverse use with long-term needs, and coordinating management of various resources without permanent impairment of productivity and environmental quality considering the relative values of the resources. Sustained yield is defined as achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use. In this context, the authorized officer will determine whether the Proposed Action comports with these FLPMA principles.

In addition to defining the required analyses and Decision Criteria for Plan Amendments, the Plan also defines the Decision Criteria to be used to evaluate future applications in the Energy Production and Utility Corridors Element of Chapter 3. These Decision Criteria include:

- Minimize the number of separate rights-of-way by utilizing existing rights-of-way as a basis for planning corridors;
- Encourage joint-use of corridors for transmission lines, canals, pipelines, and cables;
- Provide alternative corridors to be considered during processing of applications;
- Avoid sensitive resources wherever possible;
- Conform to local plans whenever possible;
- Consider wilderness values and be consistent with final wilderness recommendations;
- Complete the delivery systems network;
- Consider ongoing projects for which decisions have been made; and

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

The Plan also states that, in the evaluation of proposed power plants, BLM will use the same factors affecting the public lands and their resources as those used by the Energy Commission. At the time the CDCA Plan was written, those factors included:

- Consistency with the Desert Plan;
- Protection of air quality;
- Impact on adjacent wilderness and sensitive resources;
- Visual quality;
- Fuel sources and delivery systems;
- Cooling-water sources;
- Waste disposal;
- Seismic hazards; and
- Regional equity.

The CDCA Plan, as amended, states that the same criteria used for determining decisions within the CDCA Energy Production and Utility Corridors Element would also be used to evaluate applications for specific electrical ROW or power plant sites. The conformity of the Proposed Action with the CDCA Plan's Energy Production and Utility Corridors Element Decision Criteria is shown in Table 3, below.

Table 3. Conformity with the CDCA Area Plan's Energy Production and Utility Corridors Element Decision Criteria

Decision Criteria	Compliance
Minimize the number of separate rights-of-way by utilizing existing rights-of-way as a basis for planning corridors	Although the Proposed Action will require a separate ROW grant, the intent of this element is somewhat met in that the action alternatives are in close proximity to the Desert Sunlight Solar Farm project and its associated linear facilities, which would allow better planning. The linear facilities for the approved project will share the approved poles, access roads, and maintenance staff of the Desert Sunlight Solar Farm's linear facilities.
Encourage joint-use of corridors for transmission lines, canals, pipelines, and cables	Placement of the Proposed Action adjacent to existing facilities and requiring the co-location of its gen-tie line on the Desert Sunlight transmission towers or ROW meets the intent of this element. Although the proposed project is not within a designated corridor joint use was encouraged in the alternatives development for the EIS. The selected gen-tie line alternative will be collocated on poles on an "allowed" transmission line.
Provide alternative corridors to be considered during processing of applications	Alternative generation site locations were considered during the planning process and are discussed in Chapter 2, Description of the Proposed Action and Alternatives. No designated corridor is available for the gen-tie line alternatives from the generation site to the substation. One gen-tie line alternative would be collocated on poles on an "allowed" transmission line.

Table 3. Conformity with the CDCA Area Plan's Energy Production and Utility Corridors Element Decision Criteria

Decision Criteria	Compliance
Avoid sensitive resources wherever possible	The extent to which the Proposed Action 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 DWMAs 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 proposed project location and configurations of the boundaries were modified in consideration of sensitive resources including crucifixion thorn.
Conform to local plans whenever possible	The extent to which the Proposed Action conforms to local plans is addressed within the Land Use chapter of the EIS. The Proposed Action is in conformance with the Riverside County General Plan. As part of the planning process, the proposed CDCA Plan amendment was provided to the Governor's Office of Planning and Research (OPR) for a Governor's Consistency Review. OPR did not identify any inconsistencies during their review.
Consider wilderness values and be consistent with final wilderness recommendations	The Proposed Action is not located within a designated Wilderness Area or Wilderness Study Area. Wilderness characteristics of the proposed project and alternatives sites are evaluated in the EIS for example in Section 4.17, Special Designations, and in Section 4.19, Visual Resources. The project site does not contain wilderness characteristics.
Complete the delivery systems network	This decision criterion is not applicable to the Proposed Action.
Consider ongoing projects for which decisions have been made	This decision criterion is not applicable to the Proposed Action. Approval of the proposed project would not affect any other projects for which decisions have been made. DHSP approval would consolidate a solar facility with an already approved large-scale solar facility and combine their transmission requirements.
Consider corridor networks which take into account power needs and alternative fuel resources	This decision criterion is not applicable to the Proposed Action. The Proposed Action does not involve the consideration of an addition to or modification of the corridor network. However, it is located adjacent to an existing project and does utilize existing transmission infrastructure, which were designed with consideration of both power needs and locations of alternative fuel resources.

3.3.6 Conformance with Applicable Plan Amendments

The DHSP does not conflict with any of the adopted CDCA plan amendments.

4. Alternatives

4.1 Alternatives Fully Analyzed

The FEIS fully analyzes 12 alternatives for the DHSP and its components: One no action alternative, two no project alternatives, four solar facility action alternatives, one no gen-tie alternative, and four gen-tie action alternatives as follows:

- Alternative 1: No Action (No Plan Amendment)
- Alternative 2: No Project Alternative (with Plan Amendment to Find the Site Suitable for Solar Energy Development)
- Alternative 3: No Project Alternative (with Plan Amendment to Find the Site Unsuitable for Solar Energy Development)
- Alternative 4: Proposed Solar Project
- Alternative 5: Solar Project Excluding WHMA
- Alternative 6: Reduced Footprint Solar Project
- Alternative 7: High-Profile Reduced Footprint Solar Project
- Alternative A: No Gen-Tie
- Alternative B: Proposed Gen-Tie (Shared Towers)
- Alternative C: Separate Transmission Towers within Same ROW
- Alternative D: Cross-Valley Alignment
- Alternative E: New Cross-Valley Alignment

In order to have a complete action alternative, the authorized officer must approve a solar generation facility configuration and a gen-tie action alternative. For a complete no-project alternative, the deciding official could choose either Alternative 2: No Project Alternative (with Plan Amendment to Find the Site Suitable for Solar Energy Development) or Alternative 3: No Project Alternative (with Plan Amendment to Find the Site Unsuitable for Solar Energy Development) with Alternative A: No Gen-Tie. For a complete no-action alternative the deciding official could choose Alternative 1: No Action and Alternative A: No Gen-Tie.

The alternatives identified during the screening process include those proposed by the Applicant as part of the design of the Proposed Action, those proposed by the BLM as part of environmental review, and ideas for potential alternatives suggested by cooperating agencies and the public during the EIS scoping period. The alternatives that responded to the purpose and need for the proposed project and were otherwise reasonable (as described in Section 6.6.1 (Reasonable Alternatives) of the BLM NEPA Handbook (H-1790-1)), were carried forward in the EIS for full analysis. Those that did not were eliminated from detailed analysis and analyzed briefly in Section 2.17 of the FEIS. The Selected Alternative – a combination of Alternatives 4 and 7 – was not specifically analyzed as a separate alternative in the FEIS. As more fully described in Section 3.1.7 of this ROD, however, the Selected Alternative is within the spectrum of alternatives analyzed in the FEIS.

4.2 Alternatives Not Fully Analyzed

According to the Council on Environmental Quality's (CEQ) NEPA Regulations (40 CFR 1502.14), the alternatives section in an EIS shall rigorously explore and objectively evaluate all reasonable alternatives; however, for alternatives which were eliminated from detailed study, the EIS shall briefly discuss the reasons for their having been eliminated.

The CEQ NEPA Regulations (40 C.F.R. 1502.13) require a statement "briefly specifying the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." The ability of potential alternatives to achieve the project's purpose and need is one of the criteria used to evaluate alternatives. The NEPA allows consideration of alternatives that meet "most" of the project's purpose. As noted in the findings for *Natural Resources Defense Council v. Morton* (458 F.2d 827 [D.C. Cir. 1972]), "Nor is it appropriate to disregard alternatives merely because they do not offer a complete solution to the problem." The Applicant's search for a suitable site began with an evaluation of the project's purpose and need, which is fundamentally to construct, operate, maintain, and eventually decommission a 150-MW solar energy facility and associated interconnection transmission infrastructure to help meet Federal and State renewable energy supply and GHG emissions reduction requirements.

The applicant's objectives helped guide the BLM's development of alternatives. Consistent with CEQ's NEPA Regulations and applicable BLM policies (e.g., NEPA Compliance for Utility-Scale Renewable Energy ROW Authorizations (IM 2011-059; BLM 2011)), the alternatives below were not carried forward for additional analysis in the EIS because they:

- Did not meet BLM's purpose and need;
- Were determined to be practically or technically infeasible (as informed by the Applicant's interests and objectives);
- Would have substantially similar effects to an alternative that is analyzed; or
- Would have similar or greater resource conflicts associated with identified alternatives.

Alternatives not fully analyzed, but considered in the EIS include the following.

- Alternative to Facilitate Wildlife Movement
- Alternatives Sites
- Alternate Solar Technologies
- Distributed and Rooftop Photovoltaics
- Alternate Renewable Technologies
- Non-Renewable Technologies
- Conservation and Demand-side Management
- Underground Installation of Gen-Tie Line
- Transmission Corridor Alternative
- Higher Mounted Panels Alternative

The BLM's rationale for eliminating these alternatives from detailed analysis is explained in Section 2.17 of the FEIS.

4.3 Environmentally Preferred Alternative

The environmentally preferred alternative is Alternative 6, the Reduced Footprint Alternative, with Alternative B, Proposed Gen-Tie Line (Shared Towers), as described in Section 2.16 of the FEIS.

4.4 Agency Preferred Alternative / Selected Alternative

In accordance with Title 40 Code of Federal Regulations (CFR) 1502.14(e), Alternative 7, High-Profile Reduced Footprint Solar Project, with Alternative B, Proposed Gen-Tie Line (Shared Towers), was identified as the BLM's preferred alternative in the FEIS. Alternative 7 with Alternative B was the preferred alternative because it would be able to generate 125 to 135 MW and at least 260,000 MWh/yr of renewable energy on 1,044 acres, compared to 150 MW with 240,000 MWh/yr on 1,208 acres in the proposed solar facility (Alternative 4). Alternative 7-B would reduce impacts resulting from ground disturbance and would incorporate the use of shared facilities in an already designated transmission line ROW, while still responding to the BLM's purpose and need and partially meeting the applicant's objectives. However, because the identification of a preferred alternative does not constitute a commitment or decision in principle, there is no requirement to select the preferred alternative in the ROD. Moreover, Selection in the ROD of an alternative other than the preferred alternative does not require preparation of a supplemental EIS if the Selected Alternative was analyzed in the EIS, as long as the rationale for selecting the chosen alternative is explained.

As a result of public and agency comment and additional information from the Applicant, the Selected Alternative is not identical to the agency-preferred alternative as presented in the FEIS. As explained above, the Selected Alternative provides for the generation of more renewable energy and the displacement of more greenhouse gas emissions than the agency-preferred alternative. The direct and indirect impacts to crucifixion thorn on the southern parcel, which prompted the development of the reduced-footprint alternatives, have been found to be mitigated fully through adoption of alternate mitigation measures in the FEIS. The Selected Alternative would not result in cultural and environmental effects outside the spectrum of those analyzed in the FEIS and includes the mitigation for crucifixion thorn as identified in MM VEG-7. Moreover, the Selected Alternative represents the best balance of renewable energy production and cultural and environmental effects for the DHSP site. It maximizes renewable energy production on a single site adjacent to another large solar energy project without substantially increasing adverse cultural and environmental effects, as more fully described in Section 3.1.7 of this ROD.

5. Public Involvement

5.1 Scoping

Notification for public Scoping Meetings held on October 3 and October 6, 2011 was posted on the BLM's website. In addition, notices were sent to Responsible and Trustee Agencies under CEQA, all landowners within 300 feet of the project boundary, and other interested parties.

Public Scoping Meetings were held on October 3, 2011 at the University of Riverside Palm Desert Graduate Center located at 75080 Frank Sinatra Drive in Palm Desert, California, and at the Lake Tamarisk Clubhouse located at 6251 Parkview Drive in Desert Center, California. A public Scoping Meeting was held on October 6, 2011, at the Joshua Tree Community Center located at 6171 Sunburst Street in Joshua Tree, California. A presentation describing the project was made by EDF (then known as enXco), with presentations describing the environmental review process presented by members of the BLM. Attendees were documented by signing in on a voluntary sign-in sheet, including 6 attendees plus KMIR TV at the University of Riverside Palm Desert Graduate Center, 30 attendees at the Lake Tamarisk Clubhouse, and 7 attendees at the Joshua Tree Community Center.

Fifteen comment letters were received during the scoping comment period that ended on October 17, 2011. Comments were received on the following categories: purpose and need, alternatives development, climate change, cultural resources, fire and fuels management, lands and realty, recreation, social and economic values, environmental justice, water resources, solid and hazardous wastes, visual resources, and cumulative effects. A summary of these comments is provided in the Scoping Summary Report (FEIS Appendix B). Comments received during the scoping process were addressed in the DEIS and FEIS.

5.2 Draft EIS Public Comment Period

The BLM published a Notice of Availability (NOA) for public and agency review and comment of the Desert Harvest Solar Project Draft EIS and CDCA Plan Amendment on April 13, 2012, in the Federal Register. A 90-day comment period is required, and was held, for the project and plan amendment, which ended on July 17, 2012. Comments were accepted by the BLM until July 20, 2012. All comments that were received by BLM were accepted.

During the public review period, the BLM hosted public hearings to solicit input from members of the communities and others in the vicinity of the proposed project and alternatives. Information regarding the location and times of the meetings was published on the BLM's website for the project.

Notifications for public scoping meetings regarding the Draft EIS were posted on the BLM's website. In addition, all landowners within 300 feet of the project boundary, and other interested parties. To assist Riverside County in meeting its obligations under the California Environmental Quality Act, notices were also sent to Responsible and Trustee Agencies. Public information meetings were held on May 14, 2012 at the Lake Tamarisk Clubhouse located at 6251 Parkview Drive in Desert Center, California, and at the Joshua Tree Community Center located at 6171 Sunburst Street in Joshua Tree, California. The BLM representatives made a presentation describing the project. Attendees were documented by signing in on a voluntary

sign-in sheet, including 13 attendees at the Lake Tamarisk Clubhouse, and 2 attendees at the Joshua Tree Community Center. A court reporter was present at both meetings to record all oral comments. A total of 37 comment letters and verbal statements containing a total of 552 discrete comments were received during the public comment period that ended on July 17, 2012. The comments are presented in Appendix M of the FEIS; Appendix N of the FEIS provides a summary of and response to all comments.

5.3 Final EIS

The FEIS was published on November 2, 2012, but due to technical difficulties, the FEIS was not made available on the BLM's website until November 5, 2012. Per the applicable NEPA regulations, the Final EIS availability period is required to last for 30 days after publication of the Final EIS before a decision is made on an action. The review period concluded on December 5, 2012. The United States Environmental Protection Agency (USEPA) reviewed and provided comments on the FEIS, stating continuing concerns regarding impacts to air quality, site hydrology, and the availability of compensatory mitigation lands. Section 3.2.8 of this ROD describes the resolution of these concerns.

5.4 Protests

A protest is an opportunity for a qualified party (any person who participated in the planning process and has an interest which is or may be adversely affected) to seek an administrative review of a proposed plan amendment decision in accordance with program-specific regulations. The NOA published by the EPA for the CDCA Plan amendment in accordance with 43 CFR 1610.5-2 initiated the plan amendment protest period for the project. Specifically, the plan amendment decisions subject to protest are: (i) whether to find the project location suitable or unsuitable for solar energy development, and (ii) whether to allow the project's gen-tie outside of a designated utility corridor.

A total of 6 protests were received from the following parties.

- Center for Biological Diversity (CBD)
- Colorado River Indian Tribes (CRIT)
- Richard Drury, Lozeau Drury LLP, on behalf of Riverside County Residents Samuel Castro and David Vasquez, San Bernardino resident Brett Stillwell, and the Laborers International Union of North America (collectively "LIUNA")
- Defenders of Wildlife, Natural Resources Defense Council, and the Sierra Club (collectively "Conservation Groups")
- Donna and Larry Charpiet and Basin and Range Watch (collectively "BRW")
- Cory J. Briggs, on behalf of Californians for Renewable Energy ("CARE") and La Cuna de Aztlan Sacred Sites Protection Circle Advisory Committee

In accordance with its policy (BLM Land Use Planning Handbook, Appendix E, p. 6 (2005)), upon request from the protesting parties, the BLM met with several of the protesting parties and the Applicant in an effort to resolve the protest issues raised. As a result of these meetings, Defenders of Wildlife, the Natural Resources Defense Council, and the Applicant agreed to certain additional Project conditions. Attached at Appendix 8 is a letter explaining the

Agreement and language that the parties requested that BLM include in this ROD. According to that Agreement, certain additional Project terms and conditions will be incorporated into a modified POD for the Project, and NRDC and Defenders of Wildlife signaled that they would be withdrawing their protests.

The BLM is not a party to the protest resolution agreement and is not subject to its terms. In response to the agreement, the BLM has agreed to accept certain additional mitigation measures that will become a condition of the ROW grant once they have been incorporated into a modified POD for the Project. To the extent the materials in Appendix 8 are inconsistent with this ROD or the applicable statutes, regulations, guidance and policy, those terms will not apply.

The BLM has analyzed these terms and has determined that they are within the range of alternatives analyzed in the FEIS and do not require BLM to supplement the FEIS. These terms are described below and will be part of this ROD and the ROW grant authorized in accordance with 43 CFR §§2805.12(i)(5), 2807.16, and 2807.17. These conditions, including modifications thereto, are subject to the limitations agreed upon by the parties, which do not affect BLM's authority under 43 CFR §§ 2807.15, 2807.20. Under the terms, the Applicant will:

- 1) develop and implement a desert kit fox management plan;
- 2) minimize grading and vegetation removal;
- 3) mitigate for all the Palen-Ford multi-species Wildlife Habitat Management Area lands located within the Project site at a ratio of 2:1;
- 4) agree to targeted land acquisitions and restoration to address connectivity concerns;
- 5) agree not to assert any water rights, to surface or groundwater, although they may use water as provided for in their ROW grant; and
- 6) modify, adapt or initiate new project monitoring activities involving natural resources including but not limited to air, water and wildlife species that vary from or are in addition to those identified in the plan of development and/or right-of-way grant stipulations.

Consistent with the applicable regulations, the BLM has reviewed and otherwise denied the protests received. However, through the protest resolution process, the BLM determined that modifications to the mitigation measures were appropriate. Those modifications are detailed in Section 2.3 above.

6. Errata

6.1 Lands and Realty

The FEIS was published with text referencing an Appendix P (FEIS at p.4.11-4), but Appendix P was mistakenly not included in the FEIS. The information being referenced documents the BLM's communication with FERC regarding the Federal withdrawal of lands across a portion of the DHSP site, and the information is included here as Appendix 5 to this ROD.

6.2 Biological Resources

The FEIS mistakenly published Tables 4.3-3 (FEIS at p.4.3-22) and 4.4-2 (FEIS at p.4.4-2) with several errors in acreage numbers. These numbers are corrected here.

Table 4.3-3. Minimum Total Compensation Acreage for Proposed Project¹

Resource	Acres of Impact	Compensation Ratio	<u>Minimum Compensation Acres</u>
Previously disturbed (no compensation)	2	0	0
All acreage within Chuckwalla DWMA and/or Chuckwalla CHU	35.7 <u>34.2</u>	5:1	178.5 <u>171</u>
Blue Palo Verde–Ironwood Woodland (Desert Dry Wash Woodland), including state-jurisdictional streambeds mapped within woodland habitat (includes acreage within Palen-Ford WHMA; excludes DWMA and CHU)	234 <u>228.3</u>	3:1	693 <u>684.9</u>
State-jurisdictional streambeds mapped within Creosote Bush Scrub (Sonoran Desert Scrub) habitat (includes acreage within Palen-Ford WHMA; excludes DWMA and CHU)	78.5	3:1	235.5
Creosote Bush Scrub (Sonoran Desert Scrub), excluding state-jurisdictional streambeds mapped within Creosote Bush Scrub habitat (includes acreage within Palen-Ford WHMA; excludes DWMA and CHU)	976.5 <u>957</u>	1:1	976.5 <u>957</u>
Minimum Total Habitat Compensation Requirement	1,300		2,083.5 <u>2,048.4</u>

Table 4.4-2. Summary of Impacts to WHMAs – Gen-Tie Line Alternatives¹

Management Area	Impacts (acres)			
	Alternative B: Proposed Gen-Tie – Shared Towers	Alternative C: Separate Transmission Towers Within Same ROW	Alternative D: Cross-Valley Alignment	Alternative E: New Cross-Valley Alignment
Chuckwalla DWMA only	—	—	—	2.5
Chuckwalla CHU only	34.2 <u>32.7</u>	34.2 <u>32.7</u>	12.4	—
DWMA and CHU overlap area	1.5	1.5	1.7	1.8
Palen-Ford WHMA	—	—	6.2	51.8
Total Acres in Wildlife Management Areas²	35.7 <u>34.2</u>	35.7 <u>34.2</u>	20.3	56.1

1 - Estimated acreage based on proportion of alignment within each management area, and the estimated disturbance acreage provided by the Applicant for each alternative

2 - The total acreage within wildlife management areas is not the sum of the DWMA, CHU, and WHMA areas due to partial overlap of the DWMA and CHU (see Figure 3.4-1, Wildlife Management Areas, in Appendix A), but rather is the total acres that fall within one or more designated WHMAs.

6.3 References

The FEIS mistakenly omitted or added references in Chapter 7 for citations in Sections 3.6, 3.7, 3.12, 3.16, 3.18, 3.20, 4.6, 4.7, 4.12, . The changes to Chapter 7 are provided in Appendix 6 of this ROD.


7. Final Agency Action

7.1 Land Use Plan Amendment

It is the decision of the BLM to approve the Proposed Plan Amendment to the CDCA Plan to identify the DHSP site as suitable for solar energy development and to allow the DHSP's high-voltage transmission line outside of a Federal energy corridor. I have resolved all 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.

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:



 Neil Kornze
 Principal Deputy Director
 Bureau of Land Management
 U.S. Department of the Interior


3/12/13

 Date

7.2 Right-of-Way Authorization

It is my decision to approve a solar energy ROW grant to EDF Renewable Energy 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. This decision is effective on the date this Record of Decision is signed.

Approved by:



 Neil Kornze
 Principal Deputy Director
 Bureau of Land Management
 U.S. Department of the Interior

3/12/13

 Date

7.3 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 the Federal district court.

Approved by:



Ken Salazar
Secretary
U.S. Department of the Interior

March 13, 2013

Date

Appendices