

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

**Decision Record
Environmental Assessment
DOI-BLM-UT-C010-2018-0042-EA**

July 23, 2018

Milford Flats South Solar Energy Zone Competitive Leasing



Location

West of Minersville, Beaver County, Utah

Cedar City Field Office
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DECISION RECORD
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Decision: It is my decision to offer for competitive leasing three parcels of public land (parcels A, B and C) totaling approximately 4,836 acres in Beaver County, Utah for solar energy development, subject to the terms, conditions, and stipulations stated below.

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

Compliance and Monitoring: The BLM described a monitoring and enforcement program for projects within Solar Energy Zones in Section 9 of the Record of Decision for the Solar PEIS (BLM 2012, p. 19). Section 9 explains:

Required design features and any additional mitigation measures will be identified in ROW authorizations for individual projects. These measures will be monitored by solar energy project developers and the appropriate Federal agency to ensure their continued effectiveness through all phases of development. In cases where monitoring indicates that mitigation measures are ineffective at meeting the desired resource conditions, the BLM would take steps to determine the cause and take corrective action using adaptive management strategies. This information would also be used to inform the authorization of future solar energy development activities on BLM-administered lands.

The BLM has committed to developing and incorporating a larger monitoring and adaptive management strategy into its Solar Energy Program to ensure that data and lessons learned about the impacts of solar energy projects will be collected, reviewed, and, as appropriate, incorporated into BLM's Solar Energy Program in the future. This long-term solar monitoring and adaptive management plan will be based on BLM's Assessment, Inventory and Monitoring (AIM) Strategy developed in 2011. It will also take advantage of and augment other AIM efforts, including Rapid Ecoregional Assessments, the national landscape monitoring framework, greater sage-grouse habitat analysis, and an array of local, management-driven monitoring efforts.

Consistent with regulatory requirements (40 CFR 1505.2(c)), the Solar PEIS ROD, and BLM NEPA Handbook H-1790-1 (BLM 2008, p. 105 et seq.), the BLM is adopting monitoring and enforcement measures to assure that necessary actions will be implemented for the duration of the project and that the BLM's decisions in the Solar PEIS ROD and this Decision Record are carried out in accordance with its approvals. Meetings and compliance inspections will be held with the solar lessee to ensure the design features are being implemented throughout the term of the lease.

Terms / Conditions / Stipulations: The BLM imposed specific terms, conditions, and stipulations as set forth in the Solar PEIS and the EA are included below. Additional standard terms and conditions will be included in the right-of-way lease.

A. Solar PEIS Design Features

In accordance with the Solar PEIS ROD, the leaseholder will be required to incorporate design features into the Project Plan of Development (POD) to avoid and minimize impacts to the surrounding environment. Additionally, in accordance with the design features and other requirements, the Applicant will prepare the following management plans and submit them to the BLM, as part of their POD, for approval following the issuance of a right-of-way lease for the Project and prior to BLM issuing a Notice to Proceed (NTP) with construction:

- Bird and Bat Conservation Strategy
- Decommissioning and Site Reclamation Plan
- Dust Abatement Plan
- Spill Prevention and Emergency Response Plan
- Hazardous Materials and Waste Management Plan
- Health and Safety Program
- Groundwater Monitoring and Reporting Plan
- Fire Management Plan
- Lighting Management Plan
- Integrated Weed Management Plan
- Raven Management Plan
- Site Rehabilitation and Restoration Plan
- Stormwater Pollution Prevention Plan
- Site Drainage Plan
- Traffic Management Plan
- Surface Water Quality Management Plan
- Worker Education and Awareness Plan

B. Project-specific Mitigation Measures and Stipulations

The analysis in the EA relies upon and tiers to the protective measures and design features established in the Solar PEIS which will be incorporated into any subsequent lease issued, and supplements those protective measures to include the following project-specific mitigation measures:

Cultural

- A Class III cultural survey will be required prior to any ground disturbing activities. All historic properties found will be avoided or mitigated in consultation with State Historic Preservation Office.
- Any mitigation resulting from an adverse effect to historic properties will be addressed through a Memorandum of Agreement as outlined in the Solar PEIS Programmatic Agreement.

Lands and Realty

- Appropriate protection measures will be applied to existing improvements (e.g., canals and access to private lands) and rights-of-way within the SEZ and adjacent to other ancillary facilities required for development of any leased parcels (e.g. gen-tie line(s) and substation).

Livestock Grazing

- A two year grazing notification will be sent to all livestock permittees that will lose AUMS to solar development, giving them two years to make any financial, business or management decisions.
- The lessee will compensate the grazing permittees for any range improvements affected or lost by lease operations.
- The lessee will construct new fences that will continue to keep the allotments and pastures separated as needed to mitigate for the removal of allotment and pasture fences.
- Rights-of-Way for livestock grazing driveways will be considered if requested by permittees.
- Any POD submitted will address mitigation and compensation strategies for impacts to livestock grazing, and any agreement with the affected permittee addressing these mitigation and compensation strategies will be submitted to the BLM concurrent with the POD prior to BLM authorizing a NTP with construction.

Wildlife

- Ground level survey wildlife clearances will be conducted for sensitive species prior to surface disturbing activities proposed during the specified date ranges below. Surveys for sensitive species will be conducted by qualified biologists and appropriate best management practices, including spatial buffers specified below or mitigation, will be applied prior to project implementation. Nest buffers may be lifted if surveys confirm a nest is not occupied.

| Species | Stipulation |
|---------------------|---|
| Dark Kangaroo Mouse | Avoid occupied habitat by 330 feet year round, or mitigate impacts. |
| Kit Fox | Avoid occupied burrows by 330 feet year round, or mitigate impacts. |
| Pygmy Rabbit | Avoid occupied habitat by 330 feet year round, or mitigate impacts. |
| Bald Eagle | 1.0 mile nest buffer. 1/1-8/31 |
| Brewer's Sparrow | 100 foot nest buffer. 4/1-7/31 |
| Burrowing Owl | 0.25 mile nest buffer. 3/1-8/31 |
| Ferruginous Hawk | 0.25 mile nest buffer. 3/1-8/1 |
| Golden Eagle | 0.5 mile nest buffer. 3/1-8/1 |
| Long-billed Curlew | 100 foot nest buffer. 4/1-7/31 |
| Sage Thrasher | 100 foot nest buffer. 4/1-7/31 |
| Short-eared Owl | 0.25 mile nest buffer. 3/1-8/1 |

- Construction will occur outside of the migratory bird breeding season (4/1-7/31). If seasonal avoidance is not feasible, nest surveys will be conducted by qualified biologist and appropriate

spatial buffers enacted at a species specific level. Buffers may be lifted if surveys confirm nest is not occupied.

- If an area is determined to be occupied greater sage-grouse habitat after ground level surveys are completed, mitigation will be considered in conformance with UGRSARMPA or other applicable guidance. Anthropogenic actions associated with development of the SEZ may need to be avoided during great sage-grouse brood rearing season (April 15-August 15) if it is shown that those actions will affect brood rearing activities in the area as determined by a qualified biologist.

Water Resources

- The developer will be required to coordinate and confirm any stream alteration or Section 404 permitting requirements through the appropriate state or federal agency with jurisdiction.

Plan Conformance and Consistency:

The BLM's Cedar City Field Office manages these lands based on decisions in the *Cedar Beaver Garfield Antimony Record of Decision/Resource Management Plan* (CBGA RMP) (BLM 1986 as amended). The proposed action is consistent with Lands Objective 1, which states, "The objectives of the lands program are to provide more effective public land management and to improve land use, productivity and utility through: a) accommodation of community expansion and economic development needs; b) improved land ownership patterns; and c) providing for the authorization of legitimate uses of public lands by processing use authorizations such as rights-of-way, leases, permits, and State land selections in response to demonstrated public needs. (BLM 1986)."

The proposed action is also subject to the *Utah Greater Sage-Grouse Approved Resource Management Plan Amendments* (GRSGARMPA) completed in 2015. None of lands included in the proposed lease sale area are within a greater sage-grouse Priority Habitat Management Area (PHMA) or General Habitat Management Area (GHMA).

Alternatives Considered: The EA considered two alternatives: the No Action Alternative and the Proposed Action, which is the Preferred Alternative as modified in the Decision by the deferral of Parcel D.

A. Proposed Action

The Proposed Action is described in detail in Chapter 2 of the EA. The BLM proposed to lease four parcels of public lands within the Milford Flats South SEZ for development of commercial scale solar energy production, under the competitive leasing regulations for solar and wind. The four parcels of public lands comprise approximately 5,564 acres. The area covered by parcels B and C was nominated for competitive leasing in December of 2017. The remainder of the parcels are being considered for competitive leasing on BLM's own initiative. No leases would be offered in greater sage-grouse PHMA or GHMA, consistent with the existing land use plan, as amended.

The on-site facilities for any future development are expected to be comprised of solar array PV modules which would connect, via short gen-tie line(s), to a substation to be built adjacent to Rocky Mountain Power's 345 kilovolt (kV) Sigurd to Red Butte Transmission Line or similar

location. Adequate exterior access exists to all parcels; new roads would only be built for interior access among the solar arrays.

Typical project construction, from site preparation and grading to commercial operation, would be expected to take 18 months or less to complete. The probable facilities and construction methods to be utilized on any leased parcels in the Milford Flats South SEZ are outlined in detail in Appendix C of the EA.

The Proposed Action, as modified by the deferral of Parcel D, was selected for the reasons conveyed under the Rational for Decision section below.

B. No Action

Under the No Action Alternative, none of the parcels would be offered for lease to develop solar energy facilities and there would be no direct, indirect, or cumulative impacts.

Rationale for Decision: The No Action Alternative was not selected because the lease parcels are located in a SEZ; the area has been identified as a priority area for utility-scale solar energy and associated transmission infrastructure development (BLM and DOE 2012). Therefore, it is reasonably foreseeable that some form of utility-scale solar development would occur in this location in the future in the absence of the Proposed Action.

In light of the location within an approved SEZ, alternative locations, project sizes, and technologies are not analyzed in detail in the attached EA, but rather are addressed and analyzed in the Solar PEIS. The EA tiers from that analysis. Section 2.0 (p. 8) of the attached EA describes alternatives considered but eliminated from further analysis.

The preferred alternative is determined by evaluation against the national environmental policy articulated in Section 101 of NEPA and implemented through regulations, policies, and guidelines issued by the Council on Environmental Quality at 40 CFR 1500. Implementation of the Proposed Action, as modified, will foster and promote the general welfare, by providing a viable alternative to serving electricity demands with fossil fuels and reducing the energy sector's contribution of greenhouse gas emissions, generating jobs, and helping the BLM to attain its mission of sustaining the health, diversity, and productivity of America's public lands for the use and enjoyment of present and future generations.

During the public comment period for the EA, the BLM received comments on the Proposed Action suggesting that leasing the four parcels would have a negative impact on livestock grazing operations and have an economic impact on the grazing permittees with potentially affected allotments. This potential impact was analyzed and disclosed in the Solar PEIS. However, in response to site specific analysis in the EA and comments received, changes were made to the EA as described in Section 5.0 (p. 16) and more specifically in Appendix I of the EA. These changes included:

- a more detailed analysis of the potential impacts to grazing based on the latest available data
- provisions to protect an existing ditch and livestock trailing access that supports grazing on private lands north and south of the SEZ. Both transect parcel D.

- a requirement for any solar lessee to include a compensation and mitigation strategy to offset impacts to livestock grazing in their POD

There were also comments received which suggested not offering for lease certain parcels based on the potential impacts from development of those parcels and/or because they had not been nominated for leasing or had any expressions of interest for solar energy development.

The analysis shows that there would be no new significant impacts from the Proposed Action beyond those identified in the Solar PEIS. However, in light of the comments received, and the fact that to date there have been no nominations or expressions of interest in Parcel D, it was decided to defer Parcel D from the current lease offering.


Protest/Appeal Language: This decision shall take effect immediately upon the date it is signed by the Authorized Officer and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay (43 CFR 2801.10(b)). Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the Authorized Officer at the Cedar City Field Office, 176 East D.L. Sargent Drive Cedar City, UT 84721. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of irreparable harm to the appellant or resources if the stay is not granted; and
4. Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the Authorized Officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adversely effected party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, not later than 15 days after filing the document with the Authorized Officer and/or IBLA.


Paul N. Briggs

Cedar City Field Manager


Date