

6450-10-P

U.S. DEPARTMENT OF ENERGY

Issuance of Loan Guarantee to Genesis Solar, LLC, for the Genesis Solar Energy Project

AGENCY: U.S. Department of Energy.

ACTION: Record of Decision.

SUMMARY: The U.S. Department of Energy (DOE) announces its decision to issue a loan guarantee under Title XVII of the Energy Policy Act of 2005 (EPAct 2005) to Genesis Solar, LLC, for construction and startup of the Genesis Solar Energy Project (GSEP), a 250-megawatt (MW) nominal capacity solar power generating facility on approximately 1,950 acres, all of which is administered by the U.S. Department of the Interior, Bureau of Land Management (BLM), in Riverside County, California. The environmental impacts of constructing and operating this project were analyzed pursuant to the National Environmental Policy Act (NEPA) in Plan Amendment/Final Environmental Impact Statement for the Genesis Solar Energy Project, Riverside County, California (75 Federal Register [FR] 52736; August 27, 2010) (Final EIS), prepared by the BLM Palm Springs-South Coast Field Office with DOE as a cooperating agency. BLM consulted DOE during preparation of the EIS, DOE provided comments, and BLM addressed those comments in the Final

EIS. DOE subsequently determined that its own NEPA procedures had been satisfied and adopted the Final EIS. (75 FR 78993; December 17, 2010)

ADDRESSES: Copies of this Record of Decision (ROD) and the Final EIS may be obtained by contacting Matthew McMillen, NEPA Compliance Officer, Environmental Compliance Division, Loan Programs Office (LP-10), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC, 20585; telephone 202-586-7248; or e-mail Matthew.Mcmillen@hq.doe.gov. The Final EIS and this ROD are also available on the DOE NEPA website at: <http://nepa.energy.gov>, and on the Loan Programs website at: <http://www.loanprograms.energy.gov>.

FOR FURTHER INFORMATION CONTACT: For further information about this ROD, contact Matthew McMillen, as indicated in the **ADDRESSES** section above. For general information about the DOE NEPA process, contact Carol Borgstrom, Director, Office of NEPA Policy and Compliance (GC-54), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC, 20585; telephone 202-586-4600; leave a message at 800-472-2756; or e-mail AskNEPA@hq.doe.gov. Information about DOE NEPA activities and access to DOE NEPA documents are available through the DOE NEPA website at <http://nepa.energy.gov>.

SUPPLEMENTARY INFORMATION:

Background

The GSEP is a proposed concentrating solar electrical generating facility using parabolic trough technology with a dry-cooling system and associated facilities located on approximately 1,950 acres of BLM-administered Federal land in Riverside County, California, approximately 27 miles east of

the unincorporated community of Desert Center and 25 miles west of the Arizona-California border city of Blythe. The GSEP will consist of two independent solar electric generating facilities with a net electrical output of 125 MW each, resulting in a total net electrical output of 250 MW. In addition to the generating facility, the project includes a distribution line, a 14-mile electrical transmission line, fiber-optic lines, a natural-gas pipeline, and a 6.5-mile access road. A double-circuit 230-kilovolt (kV) transmission line will be constructed to connect to the Southern California Edison Colorado River substation via the existing Blythe Energy Project Transmission Line between the Julian Hinds and Buck substations. The linear facilities will encompass approximately 90 acres outside the proposed project site.

On January 31, 2007, BLM's Palm Springs-South Coast Field Office received an application pursuant to Title V of the Federal Land Policy and Management Act (43 United States Code [U.S.C.] 1761) for a right-of-way (ROW) to construct, operate, maintain, and decommission a project identified as the NextEra Ford Dry Lake Solar Power Plant on BLM-administered Federal land in Riverside County, California. In June 2009, the applicant notified BLM that the company name was being changed to Genesis Solar, LLC, and the project became known as the Genesis Solar Energy Project (GSEP). The BLM California Desert Conservation Area (CDCA) Plan requires that all sites associated with power generation or transmission not identified in the CDCA Plan be considered through the plan amendment process. BLM approved the Proposed Plan Amendment to the CDCA Plan to allow the GSEP and approved a solar energy ROW to Genesis Solar, LLC, for the project; on November 4, 2010, the Secretary of the Interior approved these decisions.

In June 2010, Genesis Solar, LLC applied to DOE for a loan guarantee under Title XVII of EPCA 2005, as amended by Section 406 of the American Recovery and Reinvestment Act of 2009.

(Recovery Act) On September 1, 2010, DOE invited the applicant to submit a Part II application in accordance with the DOE Federal Loan Guarantee Solicitation for Commercial Technology Renewable Energy Generation Projects under the Financial Institution Partnership Program, No. DE-FOA-0000166. On November 17, 2010, Genesis Solar, LLC submitted its Part II application for an \$800 million loan guarantee to support the financing of the GSEP.

NEPA Review

BLM was the lead Federal agency in the preparation of the Genesis Solar Energy Project EIS, and DOE was a cooperating agency pursuant to a Memorandum of Agreement between DOE and BLM signed in January 2010. DOE reviewed the content of the draft EIS and provided comments to BLM to ensure that the DOE NEPA regulations (10 Code of Federal Regulations part 1021) were satisfied.

On November 23, 2009, the BLM published the “Notice of Intent to Prepare an Environmental Impact Statement/Staff Assessment for the NextEra Ford Dry Lake Solar Power Plant, Riverside County, CA, and Possible Land Use Plan Amendment” in the Federal Register (74 FR 61167), with a 30-day scoping period for public comments that closed on December 23, 2009. The project name later changed to Genesis Solar Energy Project. The Environmental Protection Agency (EPA) published a Notice of Availability of the Draft EIS and the Draft CDCA Plan Amendment for GSEP in the Federal Register on April 9, 2010 (75 FR 18204). The Draft EIS was available for a 90-day public comment period, which closed on July 8, 2010. Comments received on the Draft EIS were addressed in the Plan Amendment and Final Environmental Impact Statement for the Genesis Solar

Energy Project, and EPA published a Notice of Availability in the Federal Register on August 27, 2010 (75 FR 52736). BLM made the Final EIS available for an additional 30-day public review and comment period from August 27 to September 27, 2010. All substantive comments received during the 30-day public review and comment period were responded to in Appendix 1 of the Record of Decision for the Genesis Solar Energy Project and Amendment to the California Desert Conservation Area Resource Management Plan, Riverside County, CA (BLM ROD). BLM published its ROD in the Federal Register on November 12, 2010 (75 FR 69458). Links to these documents can be found at the BLM website:

<http://www.blm.gov/ca/st/en/prog/energy/fasttrack/genesis/fedstatus.html>.

On October 7, 2010, DOE received a comment letter from the California Unions for Reliable Energy (CURE) regarding Colorado River water rights and the need for an approved water allocation for GSEP. DOE reviewed the comment responses prepared by BLM and published in the Final EIS and the information provided in the BLM ROD, and concurs with BLM as stated in its ROD that:

The BLM has thoroughly reviewed the regulatory framework regarding the use of the accounting surface methodology of determining impacts to the Colorado River and determined that no formal regulation exists that requires Genesis to acquire an allocation at this time. The Bureau of Reclamation has not finalized its rule on the accounting surface methodology for the Colorado River. This ROD recognizes that, should a rulemaking be finalized on the currently proposed accounting surface method, the BLM will work with Genesis to ensure that appropriate processes are followed to obtain such an allocation. (BLM ROD, Section 1.2, page 13)

Alternatives Considered

BLM considered six alternatives: (1) the project identified in the Final EIS as the Proposed Action (parabolic trough technology with wet cooling); (2) the Dry Cooling Alternative (identified in the Final EIS as the Preferred Alternative and ultimately selected by BLM); (3) the Reduced Acreage

Alternative; (4) No Action Alternative A; (5) No Action Alternative B; and (6) No Action Alternative C (under which no ROW grant for the GSEP would be authorized but the CDCA Plan would be amended). Chapter 2 of the Final EIS describes these alternatives in detail, and they are fully analyzed in Chapters 3 and 4 of the Final EIS.

The Dry Cooling Alternative, identified as the BLM Selected Alternative in the BLM ROD, requires mitigation measures identified in Chapter 4 of the Final EIS; the complete language of these measures, terms, and conditions is provided in Appendix G, Conditions of Certification, of the Final EIS. BLM has incorporated these requirements as terms and conditions into the ROW. In addition, BLM developed a Compliance Monitoring Plan, which is included as Appendix 6 to the BLM ROD.

The DOE decision is whether or not to issue a loan guarantee to Genesis Solar, LLC for \$800 million to support construction and startup of the GSEP. Accordingly, the DOE alternatives in the Final EIS are (1) issue the loan guarantee for construction and startup of the GSEP under the Dry Cooling Alternative identified as the BLM Selected Alternative in the BLM ROD, and (2) the No Action Alternative. Under the No Action Alternative, DOE would not issue a loan guarantee for the project, and it is not likely that Genesis Solar, LLC would implement the project as currently planned.

Environmentally Preferable Alternative

The BLM ROD identifies three environmentally preferable alternatives: (1) No Action Alternative A, under which BLM would not approve the ROW for the GSEP and would not amend the CDCA Plan; (2) No Action Alternative B, under which BLM would not authorize the ROW for the GSEP

but would amend the CDCA Plan to make the project site unavailable for any type of solar energy development; and (3) the Dry Cooling Alternative, under which the project would use dry cooling technology to generate the same energy output using the same footprint but would reduce water consumption by 87%. No Action Alternatives A and B would not have impacts on the ground. However, neither of these alternatives would allow the development of renewable energy, which is a national priority. The Dry Cooling Alternative is the BLM Preferred Alternative in the Final EIS and is identified as the Selected Alternative in the BLM ROD because it allows the development of renewable energy. No wetlands would be filled and no delineated floodplains would be affected under the Dry Cooling Alternative.

DOE has decided that its Alternative 1, to issue a loan guarantee for construction and startup of the GSEP under the Dry Cooling Alternative, is environmentally preferable. DOE has determined that this alternative offers environmental benefits due to a reduction in impacts to water resources, while allowing the project's total generation capacity of 250 MW of renewable energy development. In addition, DOE has determined that this alternative offers substantial environmental benefits due to anticipated reductions in greenhouse gas emissions as described in the Final EIS, and that all practicable means to avoid or minimize environmental harm, as described in the BLM ROD and its appendices for the GSEP, are adopted as required mitigation measures by BLM.

Consultation

As the lead Federal agency for the GSEP, BLM complied with Section 106 of the National Historic Preservation Act and consulted with the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and interested Native American tribes; complied with Section 7

of the Endangered Species Act and the Bald and Golden Eagle Protection Act and consulted with the U.S. Fish and Wildlife Service; and entered into government-to-government consultations with a number of tribal governments. In addition, BLM consulted with the U.S. Army Corps of Engineers, which determined that the project site does not impact waters of the United States and that a Clean Water Act permit will not be required, and the State of California and Riverside County regarding compliance with state and local laws. Section 5.5 of the BLM ROD summarizes consultations with agencies and other entities.

Intentional Destructive Acts

As a part of its own review, DOE verified that the potential environmental impact of acts of terrorism, sabotage or other intentional destructive acts was considered in the Final EIS. DOE concluded that the proposed GSEP presents an unlikely target for an act of terrorism or sabotage. Further, as discussed in the Final EIS, the site security measures provide appropriate levels of security to protect electrical infrastructure from malicious mischief, vandalism, or domestic/foreign terrorist attacks.

Decision

DOE has decided to issue a loan guarantee for construction and startup of GSEP under the Dry Cooling Alternative, as described in the Final EIS and BLM ROD.

Approval of the loan guarantee for GSEP responds to the DOE purpose and need pursuant to Section 1705 of EAct 2005 (42 U.S.C. 16511–16514), which was added to EAct 2005 by the Recovery Act. Section 1705 authorizes a program for rapid deployment of renewable energy projects and

related manufacturing facilities, electric power transmission projects, and leading-edge biofuels projects. The primary purposes of the Recovery Act are job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and state and local fiscal stabilization. The Section 1705 program is designed to address the economic conditions of the Nation, in part, through renewable energy, transmission, and leading-edge biofuels projects. Eligible projects must commence construction by September 30, 2011.

Mitigation

The GSEP project for which DOE has decided to issue a loan guarantee includes mitigation measures, terms, and conditions applied by BLM in its ROW. The mitigation measures, terms, and conditions represent practicable means to avoid or minimize environmental impacts from the selected alternative (the Dry Cooling Alternative). BLM is lead Federal agency for the GSEP project under NEPA and is responsible for ensuring compliance with all adopted mitigation measures, terms, and conditions for the GSEP project set forth in the Final EIS and ROD. The complete language of the mitigation measures, terms, and conditions is provided in Appendix G of the Final EIS, and the Compliance Monitoring Plan is provided in Appendix 6 of the BLM ROD. BLM has also incorporated the mitigation measures, terms, and conditions into the ROW as terms and conditions.

The DOE loan guarantee agreement requires that the applicant comply with all applicable laws and the terms of the ROW, including mitigation measures. An applicant's failure to comply with applicable laws and the ROW would constitute a default. Upon continuance of a default, DOE would have the right under the loan guarantee agreement between DOE and the applicant to exercise

usual and customary remedies. To ensure that the applicant so performs, the Loan Programs Office monitors all operative loan guarantee transactions.

Issued in Washington, DC, on 8-25, 2011



Jonathan M. Silver
Executive Director
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