6450-10-P

U.S. DEPARTMENT OF ENERGY

Issuance of a Loan Guarantee to First Solar, Inc., for the Desert Sunlight Solar Farm 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 First Solar, Inc., (First Solar) for construction and start-up of the Desert Sunlight Solar Farm Project (DSSFP or the Project), a 550-megawatt (MW) nominal capacity solar photovoltaic power generating facility on approximately 4,144 acres, all of which is administered by the U.S. Department of the Interior, Bureau of Land Management (BLM), in Riverside County, California. The potential 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 Desert Sunlight Solar Farm Project (76 Federal Register [FR] 21402; April 15, 2011) 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 to BLM on the content, and BLM addressed those comments in the Final EIS. DOE subsequently

determined that the project analyzed in the Final EIS is substantially the same as the project that would be covered by the DOE loan guarantee and that its own NEPA procedures had been satisfied, and DOE adopted the Final EIS (DOE/EIS-0448) (76 FR 37112; June 24, 2011).

ADDRESSES: Copies of this ROD and the Final EIS may be obtained by contacting Joseph Marhamati, NEPA Document Manager, Environmental Compliance Division, Loan Programs Office (LP-10), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC, 20585; telephone 202-586-8198; or e-mail joseph.marhamati@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 Joseph Marhamati, 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 proposed DSSFP is a photovoltaic solar electrical generating facility using commercial, thin-film cadmium telluride solar module technology on a total of approximately 4,144 acres of

BLM-administered Federal land in Riverside County, California, six miles north of Desert Center, between the cities of Coachella to the west and Blythe to the east. The Project includes an operations and maintenance facility, solar energy visitor's center, and an on-site electric transmission substation. Also, the Project includes a 220-kilovolt (kV) Gen-Tie Line (generation interconnection line) that will transmit the electricity generated to the regional transmission system, through the proposed new Red Bluff Substation where the power will feed into Southern California Edison's existing "Devers Palo Verde 1" 500-kV transmission line. The Gen-Tie Line will be 12.1 miles long. In addition, the Project will include a distribution line, an electrical transmission line, telecommunication facilities, and an access road (approximately 7.3 miles long).

In November 2009, the BLM 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) grant to construct, operate, maintain, and decommission a project identified as the Desert Sunlight Solar Farm Project on BLM-administered Federal land in Riverside County, California. The BLM California Desert Conservation Area (CDCA) Plan requires all sites identified for power generation or transmission facilities that are not identified in the CDCA Plan to acquire a Plan Amendment to the CDCA Plan. BLM approved the Proposed Plan Amendment to the CDCA Plan to allow the DSSFP and approved a solar energy ROW grant to First Solar for the project. BLM published a Notice of Availability for its ROD in the Federal Register on August 15, 2011 (76 FR 50493).

In December 2009, First Solar applied to DOE for a loan guarantee under Title XVII of EPAct 2005, as amended by Section 406 of the American Recovery and Reinvestment Act of 2009 (Recovery Act). On January 7, 2010, First Solar submitted its Part II application for a $1.24 billion loan guarantee to support the financing of the DSSFP.

NEPA Review

BLM was the lead Federal agency in the preparation of the DSSFP 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 information requirements of DOE NEPA regulations (10 Code of Federal Regulations part 1021) were satisfied and that the analyzed alternatives encompassed the DOE proposed loan guarantee for construction and start-up of DSSFP.

On January 13, 2010, BLM published "Notice of Intent To Prepare an Environmental Impact Statement for the Proposed First Solar Desert Sunlight Solar Farm Project, Riverside County, CA and Possible Land Use Plan Amendment" in the Federal Register (75 FR 1801), with a 30-day scoping period for public comments that closed on February 12, 2010. The U.S. Environmental Protection Agency (EPA) published a Notice of Availability of the Draft EIS and the Draft CDCA Plan Amendment for DSSFP in the Federal Register on August 27, 2010 (75 FR 52736). The Draft EIS was available for a 90-day public comment period, which closed on November 26, 2010. Comments received on the Draft EIS were addressed in the Plan Amendment and Final Environmental Impact Statement for the Desert Sunlight Solar Energy Project (Final EIS), and the EPA published a Notice of Availability in the Federal Register on

April 15, 2011 (76 FR 21345). All substantive comments received during the 30-day waiting period for the Final EIS were reviewed and responded to in Section 5.3 of BLM's Record of Decision for the Desert Sunlight Solar Farm Project (BLM ROD). BLM published the Notice of Availability for its ROD in the Federal Register on August 15, 2011 (76 FR 50493). Links to these documents can be found on the BLM website: http://www.blm.gov/ca/st/en/prog/energy/fasttrack/First/fedstatus.html.

Alternatives Considered

BLM considered six alternatives: (1) the project identified in the Final EIS as the Proposed Action with Land Use Plan Amendment (4,144-acre site layout and 550 MW output); (2) an Alternate Action Alternative with Land Use Plan Amendment (reconfigured 4,110-acre site layout and 550 MW output) (3) a Reduced Acreage Alternative with Land Use Plan Amendment (3,303-acre site layout and 413 MW output); (4) No Action Alternative A (No Issuance of a Right-of-Way Grant and No Land Use Plan Amendment); (5) No Action Alternative B (No Project with Plan Amendment to identify the area as unsuitable for solar energy development); and (6) No Action Alternative C (No Project with Plan Amendment to identify the area as suitable for solar energy development). Chapter 2 of the Final EIS describes these alternatives in detail, and they are fully analyzed in Chapter 4 of the Final EIS. Alternative 1 was identified in the Final EIS as the Preferred Alternative and ultimately selected by BLM. BLM also approved part of Final EIS Alternative 5 that makes the remainder of the Project Study Area (approximately 14,500 acres) unavailable for large-scale solar energy development.

The DOE decision is whether or not to issue a loan guarantee to First Solar for $1.24 billion to support construction and start-up of the DSSFP. Accordingly, the DOE alternatives are to issue the loan guarantee to First Solar for construction and start-up of the DSSFP under the Proposed Action identified as the BLM Selected Alternative in the BLM ROD, and 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 First Solar would implement the project as currently planned.

Environmentally Preferable Alternative

BLM's environmentally preferred alternative is the No Action Alternative involving No Project with Plan Amendment to Identify the Area as Unsuitable for Solar Development (Alternative 5). This alternative would not allow development of the proposed project or other solar energy generating projects at this location and would have no impacts on the ground. BLM indicated in its ROD that this alternative would not allow the development of renewable energy, and this alternative was not chosen in full by BLM. However, a portion of the alternative was approved which made the remainder of the Project Study Area unavailable to solar development.

DOE has decided that its proposed Alternative, to issue a loan guarantee for construction and start-up of the DSSFP identified as the Proposed Action in the Final EIS, is environmentally preferable. 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 because all practicable means to avoid or minimize environmental harm, as described in the Final EIS and BLM ROD and its appendices for the DSSFP, are required by BLM as mitigation measures.

Consultation

As the lead Federal agency for the DSSFP, 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. Chapter 5 of the BLM Final EIS summarizes consultations with agencies and other entities.

Intentional Destructive Acts

As a part of its review, DOE verified that a discussion of acts of terrorism, sabotage or other intentional destructive acts was included in the Final EIS. DOE concludes that the proposed DSSFP 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 start-up of DSSFP identified as the Proposed Action with Land Use Plan Amendment alternative in the Final EIS, which BLM selected in its ROD.

Approval of the loan guarantee for DSSFP responds to the DOE purpose and need pursuant to Title XVII Section 1705 of EPAct 2005 (42 U.S.C. 16511–16514). 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. To be eligible, projects must commence construction by September 30, 2011.

Mitigation

The DSSFP project for which DOE has decided to issue a loan guarantee, includes mitigation measures, terms, and conditions applied by BLM in its ROW grants. The mitigation measures, terms, and conditions represent practicable means by which to avoid or minimize environmental harm from the selected alternative (Proposed Action). BLM is the lead Federal agency for the DSSFP project under NEPA and is responsible for ensuring compliance with all adopted mitigation measures, terms, and conditions for the DSSFP project set forth in the Final EIS and BLM ROD. The mitigation measures, terms, and conditions are provided in Appendix L of the Final EIS and Appendix 2 of the BLM ROD. A Compliance Monitoring Plan for those measures, terms, and conditions is provided in Appendix 5 of the BLM ROD.

The DOE loan guarantee agreement requires that the applicant comply with all applicable laws and the terms of the ROW grant, including mitigation measures contained therein. An

applicant's failure to comply with applicable laws and the ROW grant 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 proactively monitors all operative loan guarantee transactions.

Issued in Washington, DC, on 9-29, 2011

Jonathan M. Silver
Executive Director
Loan Programs Office