



October 20, 2010

Mr. Christopher Meyer  
CEC Project Manager  
Attn: Docket No. 08-AFC-13  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814-5512

<b>DOCKET</b>	
<b>08-AFC-13</b>	
DATE	OCT 20 2010
RECD.	OCT 20 2010

RE: Calico Solar (formerly Solar One) Project (08-AFC-13)  
Bureau of Land Management Record of Decision

Dear Mr. Meyer:

Tessera Solar hereby provides the Bureau of Land Management's Record of Decision. I certify under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge.

Sincerely,

Felicia L. Bellows  
Vice President of Development

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# RECORD OF DECISION

## For the Calico 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 FES-10-30  
Case File Number: CACA 49537*

*Calico Solar (formerly SES Solar One) Project  
Decision to Amend the Resource Management Plan and Grant Right-of-Way*

*United States Department of the Interior  
Bureau of Land Management  
Barstow Field Office  
2601 Barstow Road  
Barstow, CA 92311*

**OCTOBER 2010**



Cooperating Federal Agencies:

*United States Department of Energy*

**DOI Control Number: FES-10-30**  
**BLM Publication Index Number: BLM/CA/ES-2010-018+1793**

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## List of Abbreviations

AFC	application for certification
AO	authorized officer
ARRA	American Recovery and Reinvestment Act
BA	biological assessment
BLM	Bureau of Land Management
BNSF	Burlington Northern Santa Fe
BO	biological opinion
CDCA	California Desert Conservation Area
CDFG	California Department of Fish and Game
CEC	California Energy Commission
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CTTM	Comprehensive Travel and Transportation Management
DNA	Determination of NEPA Adequacy
DOE	U.S. Department of Energy
DOI	U.S. Department of the Interior
ECCMP	Environmental and Construction Compliance Monitoring Program
EPA	Environmental Protection Agency
EPAct	Energy Policy Act
ESA	Endangered Species Act
FEIS	final environmental impact statement
FLPMA	Federal Land Policy Management Act of 1976
I-15	Interstate 15
I-40	Interstate 40
LLC	limited liability company
LUP	land use plan
LWCF	Land and Water Conservation Fund
MOU	memorandum of understanding
MW	megawatt
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
PA	programmatic agreement
PEIS	programmatic environmental impact statement
PMPD	presiding member’s proposed decision
POD	plan of development
PPA	power purchase agreement
ROD	record of decision
ROW	right-of-way
RPS	renewable portfolio standard
RWQCB	Regional Water Quality Control Board
SA/DEIS	staff assessment/draft environmental impact statement
SCE	Southern California Edison
SES	Stirling Energy Systems
SF	Standard Form
SHPO	California State Historic Preservation Office
SSA	supplemental staff assessment
TUP	temporary use permit
U.S.	United States
USACE	U.S. Army Corps of Engineers
USC	United States Code
USFWS	U.S. Fish and Wildlife Service
WSA	wilderness study area

## Executive Summary

This document constitutes the Record of Decision (ROD) of the United States Department of the Interior (DOI) and Bureau of Land Management (BLM) for the Calico Solar (formerly Stirling Energy Systems (SES) Solar One) Project and Amendment to the *California Desert Conservation Area Plan* (CDCA Plan). Calico Solar, Limited Liability Company (LLC) applied for a right-of-way (ROW) grant from the BLM under Title V of the Federal Land Policy and Management Act (FLPMA), 43 United States Code (USC) 1701, to approve the Calico Solar Project. The BLM's actions were to determine whether to approve the ROW grant, to approve the grant with modifications or to deny the grant for the Calico Solar Project. If the BLM decides to approve the ROW grant, an amendment to the CDCA Plan is necessary to include the Calico Solar Project site for solar use and incorporate it into the Plan because it was not already identified as a site for power generation in that Plan.

This ROD includes both a CDCA Plan Amendment and a ROW grant decision. These decisions approve a site location for and approve the Calico Solar Project as a 663.5-Megawatt (MW) Alternative, modified from the 850-MW Agency Preferred Alternative, analyzed in the Final Environmental Impact Statement (FEIS). This 663.5-MW Alternative is also referred to as the Selected Alternative in this ROD. The Selected Alternative encompasses approximately 4,604 acres of BLM lands in San Bernardino County, California. An amendment to the CDCA Plan is required to identify 4,604 acres of the project site as available for solar energy generation. This decision reflects careful consideration and resolution of the issues by BLM and the DOI, and was thoroughly analyzed during the Calico Solar Project environmental review process.

The Department of Energy (DOE) was a cooperating agency during the NEPA process for the Calico Solar Project because the Secretary of Interior authorizes loan guarantees for a variety of projects. The two purposes of the loan guarantee program are to encourage commercial use in the United States of new or significantly improved energy-related technologies and to achieve substantial environmental benefits. The purpose and need for action by the DOE is to comply with its mandate under the Energy Policy Act by selecting eligible projects that meet the goals of that Act.

This ROD applies only to BLM-administered lands. As a cooperating agency, the DOE is responsible for issuing its own decisions and applicable authorizations relative to the Calico Solar Project.

The proposed CDCA Plan Amendment was reviewed by the Governor’s Office of Planning and Research following the issuance of the FEIS and was found to be consistent with local and state plans.

## **ES.1 Decision Rationale**

These decisions fulfill legal requirements for managing public lands. Granting the ROW to Calico Solar, LLC, contributes to the public interest in developing renewable power from the Calico Solar Project to meet Federal and State renewable energy goals. The stipulations in the grant ensure that authorization of the Calico Solar Project will protect environmental resources and comply with environmental standards. These decisions reflect the careful balancing of the many competing public interests in managing public lands for public benefit. These decisions are based on comprehensive environmental analysis and full public involvement. The BLM engaged highly qualified technical experts to analyze the environmental effects of the Calico Solar Project. During the scoping process and following publication of the SA/DEIS, members of the public submitted comments that have enhanced the BLM’s consideration of many environmental issues germane to the Federal authorization of the Calico Solar Project. The BLM, CEC, DOE, DOI and other consulted agencies used their expertise and existing technology to address the important issues of environmental resource protection. The BLM and DOI have determined that the measures contained in the FEIS, the Programmatic Agreement regarding the management of cultural resources, the Biological Opinion, avoid or minimize environmental harm to the maximum extent practicable.

## 1.0 Decisions

### 1.1 Background

This Record of Decision (ROD) for the Calico Solar Project and Associated Amendment to the *California Desert Conservation Area Plan* (CDCA Plan) approves the construction, operation, maintenance, and termination (which includes decommissioning) of the proposed Calico Solar Project on public lands in San Bernardino County, California, as analyzed in the *Final Environmental Impact Statement (FEIS) and Proposed Amendment to the California Desert Conservation Area Plan for the Calico Solar (formerly SES Solar One) Project* and as noticed in the August 6, 2010, *Federal Register* (FR). This approval will take the form of a Federal Land Policy and Management Act (FLPMA) right-of-way (ROW) grant, issued in conformance with 43 United States Code (USC) Title V of FLPMA, and implementing regulations found at 43 Code of Federal Regulations (CFR), Part 2800. In order to approve the site location for the Calico Solar Project, the BLM also approves a land use plan amendment to the CDCA Plan of 1980, as amended. The BLM also approves the closure of 10 Open Routes that traverse the approved project site. The ROW grant will allow Calico Solar, LLC (Applicant), the right to use, occupy, and develop the described public lands to construct, operate, maintain, and terminate a 663.5-megawatt (MW) solar energy facility in the Mojave Desert. This decision is conditioned, however, on implementation of mitigation measures and monitoring programs as identified in the FEIS, the Biological Opinion (BO) issued by the United States Fish and Wildlife Service (USFWS), the National Historic Preservation Act (NHPA) Section 106 Programmatic Agreement (PA), and the California Energy Commission (CEC) Conditions of Certification.

This decision approves the Calico Solar Project Agency Preferred Alternative as analyzed in the FEIS, with some post-FEIS modifications. The Modified Agency Preferred Alternative is also referred to as the Selected Alternative in this ROD. The 663.5-MW Selected Alternative will be built on approximately 4,604 acres of BLM land. If the approved alternative does not progress to construction, operation, or is proposed to be changed to the extent that it appears to the BLM to be a new project proposal on the approved project site, that proposal is subject to additional NEPA review.

The decisions contained herein apply only to the BLM-administered public lands within the Selected Alternative.

One ROW grant will be issued to Calico Solar, LLC, for a term of 30 years with a right of renewal so long as the lands are being used for the purposes specified in the grant. Calico Solar, LLC, may, on approval from the BLM, assign the ROW grant to another party in conformance with the Part 2800 ROW regulations. Construction of the project may be phased;

however, the BLM typically requires the initiation of project construction within 18 months of the issuance of a ROW grant. In addition, initiation of construction will be conditioned on final BLM approval of the construction plans. This approval will take the form of an official Notice to Proceed (NTP) for each phase or partial phase of construction.

The 663.5-MW project will be located on public land managed by the BLM in San Bernardino County, California. The Applicant has applied for an ROW grant from the BLM California Desert District for the part of the project site managed by the BLM. The project site totals approximately 4,604 acres in the Mojave Desert, north of Interstate 40 (I-40), approximately 37 miles east of Barstow, approximately 57 miles northeast of Victorville; and approximately 115 miles east of Los Angeles (Figure 6-1, provided in Appendix 5, Location Maps, shows the project vicinity). The Calico Solar Project is a concentrated solar electrical generating facility using the proprietary SunCatcher technology and facilities. The Calico Solar Project site includes approximately 4,604 acres of BLM managed lands. In addition to the SunCatcher solar array, the project includes a 2-mile, 230-kilovolt (kV) electrical transmission line that would connect a new 230-kV substation to the existing Pisgah substation, a main services complex, with other related facilities and infrastructure within the project site, as shown in Figure 6-2 in Appendix 5.

Construction of the 663.5-MW project is planned to begin in late 2010. Although construction will take approximately 44 months to complete, power will be available to the grid as each 60 unit group of Stirling Energy Systems (SES) engine modules is completed.

The Calico Solar Project is one of the first large-scale solar energy generation projects approved on public lands. The BLM worked closely with State and Federal agencies and the public in an unprecedented collaborative effort. Through this process, the BLM has gained insights into the complexity of permitting utility-scale renewable energy projects on diverse public lands, and the need for flexibility throughout the process. The BLM will continue to engage agency partners and the public in this constantly evolving environment.

### **1.1.1 Application/Applicant**

Calico Solar, LLC (Applicant) submitted a Standard Form (SF) 299 –“Application for Transportation and Utility Systems and Facilities on Federal Lands” with the BLM Barstow Field Office for a ROW grant. The Applicant is a private enterprise that is a wholly owned subsidiary of Tessera Solar. The Applicant is seeking approval to construct, operate, and decommission the Calico Solar Project and related facilities and infrastructure.

Parallel to the Federal ROW grant application process, an Application for Certification (AFC) for the project was filed with the CEC. The application was originally submitted by SES Solar One LLC, SES Solar Three LLC, and SES Solar Six LLC for the SES Solar One Project. In January 2010, the above entities merged into Calico Solar LLC, and the name of the SES Solar One

Project was changed to the Calico Solar Project. Since filing its original ROW application with the BLM, the Applicant's development plans have been updated several times through submittals to the CEC project docket. The CEC project docket can be accessed online at <http://www.energy.ca.gov/sitingcases/calicosolar/index.html>.

The Applicant and Southern California Edison (SCE) have entered into a 20-year Power Purchase Agreement (PPA) for the provision of renewable electricity. The California Public Utilities Commission (CPUC) approved the PPA on October 27, 2005. The Applicant also has a signed Large Generator Interconnection Procedures with SCE, dated January 9, 2008, and a signed Large Generator Interconnection Agreement, dated February 26, 2010.

## **1.1.2 Purpose and Need**

### **1.1.2.1 Bureau of Land Management Purpose of and Need for the Proposed Action**

The BLM's purpose of and need for the Calico Solar Project is to respond to the Calico Solar, LLC, application under Title V of FLPMA (43 USC 1701) for a ROW grant to construct, operate, maintain, and terminate a solar energy generation facility on public lands in compliance with FLPMA, BLM ROW regulations, and other applicable Federal laws. Specifically, the BLM has decided to grant an ROW to Calico Solar, LLC, for the 663.5-MW Selected Alternative for the Calico Solar Project.

The BLM's actions also include closing routes within the project location and amending the CDCA Plan. This ROD specifically amends the CDCA Plan to allow a solar energy generation facility on this site

### **1.1.2.2 United States Department of Energy Purpose and Need**

The United States Department of Energy (DOE) is a cooperating agency with the BLM on the FEIS.

The Energy Policy Act of 2005 established a Federal loan guarantee program for eligible energy projects that employ innovative technologies. Title XVII of that Act authorizes the Secretary of Energy to make loan guarantees for a variety of types of projects, including those that "...avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases, and employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued." The purposes of the loan guarantee program are to encourage commercial use in the United States of new or significantly

improved energy-related technologies and to achieve substantial environmental benefits. The purpose and need for the Calico Solar Project for action by the DOE is to comply with its mandate under the Energy Policy Act by selecting eligible projects that meet the goals of that Act.

### **1.1.3 EIS Availability, 30 Day Review, Protests**

Pursuant to a July 2007 MOU between the BLM and CEC for the joint environmental review of solar energy projects, the BLM and the CEC prepared a joint SA/DEIS for the Applicant-proposed 850-MW project and other action alternatives. The SA/Draft EIS was formally released for a 90-day agency and public review on April 2, 2010. The comments received on the DEIS and BLM responses are provided in Appendix G, Public and Agency Comments on the Draft Environmental Impact Statement, in the FEIS.

Copies of the FEIS dated August 6, 2010 are available at the BLM Barstow Field Office (2601 Barstow Road, Barstow, California 92311) and the BLM California Desert District Office (22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553). The Final EIS is also available online at the following location:

- BLM website:  
<http://www.blm.gov/ca/st/en/prog/energy/fasttrack/calico.html>

The FEIS was available for a 30-day public review and protest period. The 30-day public comment and protest period closed on September 7, 2010. The comments that were submitted on the FEIS and the BLM's responses thereto are included in Appendix 1, Response to FEIS Comments.

The Notice of Availability (NOA) for the FEIS was published by the Environmental Protection Agency (EPA) in the Federal Register on August 6, 2010. A 30-day protest period followed release of the document and ended on September 7, 2010. All substantive comments received during the 30-day protest period were reviewed and responded to by the BLM in this ROD. The protests have been resolved by the Director.

After issuing this ROD for the 663.5-MW project, the BLM will publish a NOA of the ROD in the Federal Register.



## **1.1.4 Authority**

### **1.1.4.1 BLM Authority under FLPMA and NEPA**

#### **FLPMA**

FLPMA establishes policies and procedures for management of public lands. In Section 102(a) (8) of FLPMA, 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 USC Part 1701(a) (8)).”

Section 202 of FLPMA and the regulations implementing the FLPMA 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 use of the public lands.

Title V of FLPMA, 43 USC 1761–1771, authorizes the BLM, acting on behalf of the Secretary of the Interior, to issue a ROW lease 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 Authorized Officer (AO) administers the ROW authorization and ensures compliance with the terms and conditions of the ROW lease. The AO means any employee of the Department of the Interior (DOI) to whom the authority to perform the duties described in 43 CFR Part 2800 has been delegated. In respect to this specific ROW lease, this authority has been delegated to the Field Manager, Bureau of Land Management, Barstow Field Office.

#### **NEPA**

Section 102(c) of 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 into agency planning to insure appropriate consideration of NEPA's policies and to eliminate delay.

When taking actions such as approving ROW grants and CDCA Plan Amendments, the BLM must comply with the applicable requirements of NEPA and the Council on Environmental Quality (CEQ) NEPA 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 project and identifying actions that protect, restore, and enhance the environment. The DEIS, FEIS, and this ROD document BLM's compliance with the requirements of NEPA and the NEPA regulations for the Calico Solar Project.

## **CDCA Plan**

In furtherance of its authority under FLPMA, the BLM manages public lands in the California Desert District pursuant to the CDCA Plan, and its amendments. The CDCA Plan must be further amended to allow the Calico Solar Project on the project site.

## **Guidance and Regulations**

Pursuant to the Guidance for Processing Applications for Solar Power Generation Facilities on BLM Administered Public Lands in the California Desert District (BLM 2008) and 43 CFR Part 2804.25:

“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.”

As discussed in the FEIS, the project site is within an existing designated Utility Corridor. Approximately 2,178 acres of the 4,604-acre project footprint is occupied by the north half of Utility Corridor G.

The potential project impacts related to occupying a utility corridor are evaluated in the FEIS. In the immediate vicinity of the project site and in Utility Corridor CDCA G, additional capacity is available in that utility corridor for future and currently unproposed projects. Joint use of the corridor is adequate to accommodate the 663.5-MW project and its related facilities and infrastructure, as well as current authorized but yet unbuilt and pending projects.

## **Other Authorities**

In conjunction with FLPMA, BLM authorities 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.”
- 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 Title 43, Part 2800 of the Code of Federal Regulations (CFR). Commercial concentrating solar power (CSP) or photovoltaic (PV) 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.”

#### **1.1.4.2 DOE Authority under EAct**

The DOE is a cooperating agency with the BLM on the FEIS. The DOE is authorized under Title XVII of the Energy Policy Act of 2005 (EAct), as amended by Section 406 of the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, to select eligible renewable energy projects for a loan guarantee that meet the goals of the act.

## **1.2 Information Developed Since the FEIS**

Since the preparation and publication of the FEIS, there have been some new information and modifications to the project as described above the Applicant, in coordination with BLM and State and Federal regulatory agencies, has agreed to modifications to certain project design features. Those modifications are listed below and are included the POD for the Modified Agency Preferred Alternative. The BLM prepared a DNA Worksheet as an internal

administrative tool to assess the potential effects of the post-FEIS modifications to project design features. The DNA is included as Appendix 6 to this ROD.

### **1.2.1 Reduction in Project Footprint**

The Modified Agency Preferred Alternative reduces the 6,215-acre project footprint described for the Agency Preferred Alternative in the FEIS to 4,604 acres to avoid high-value desert tortoise and Nelson's bighorn sheep habitat in the north portion of the project site.

### **1.2.2 Reduction in Generating Capacity**

The Modified Agency Preferred Alternative reduces the number of SunCatchers (34,000) described for the Agency Preferred Alternative in the FEIS to 26,540 SunCatchers to accommodate the reduced project footprint. This reduction in SunCatchers would result in a reduction in generating capacity of the completed project from 850 MW to 663.5 MW.

### **1.2.3 Modification in Project Construction Schedule**

Since publication of the FEIS, Phase 1 of the construction schedule has been subdivided into Phase 1a and 1b. Phase 1a would include construction of the main access road, the waterline from the water well on the Applicant-owned land to the main services complex, the main services complex, the Calico Solar substation, the installation of 60 SunCatcher pedestals, and the temporary at-grade crossing and permanent bridge spanning the BNSF railroad tracks. Prior to completing the temporary at-grade railroad crossing, the existing BNSF crossing and BNSF ROW will be used to access Phase 1a. Phase 1b of the project would include construction of 11,000 SunCatchers on 1,876 acres with a total net nominal capacity of 275 MW. Phase 2 of the project includes construction of 26,450 SunCatchers on 2,737 acres with a net nominal capacity of 388.5 MW.

### **1.2.4 Modification to Project Design Features**

In the FEIS, the action alternatives included a temporary construction access across the BNSF ROW and a separate permanent access route and bridge later in time. This was subsequently modified such that the BNSF would build a temporary at-grade crossing in the same location where the permanent bridge crossing was identified in the FEIS for construction and the Applicant would use the planned permanent access route during construction instead of the temporary construction access.

In the FEIS, the build alternatives did not include use of diesel generators for construction power. The Applicant has subsequently learned that SCE would not be able to provide electrical power to the project until February 2011, at the earliest. As such, the Applicant has modified its proposal to include two Tier 3 (if available) or Tier 4 diesel generators to provide construction power until the Phase 1 upgrade of the existing SCE Pisgah substation is complete.

In the FEIS, the Lavic Basin Well 3 was assumed to not be suitable for potable consumption, requiring the need for potable water to be trucked to the project site. The Applicant has subsequently determined that the water supply from Well 3 would be potable with chlorination and reverse osmosis, eliminating the need for water to be trucked to the site.

## **1.3 Decisions Being Made**

### **1.3.1 BLM Right-of-Way Lease/Grant**

Under Federal law, the BLM is responsible for processing requests for ROW applications to determine whether and to what extent to authorize proposed projects such as renewable energy projects, transmission lines, and other related facilities and infrastructure 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 from the BLM pursuant to Federal law and regulations. The BLM concludes that the acreage approved by the ROW lease/grant is the acreage the Calico Project will occupy and that is necessary for constructing, operating, maintaining, and decommissioning the authorized facilities on public lands. In addition, the BLM has limited the lease/grant to those lands necessary to protect public health and safety that will not unnecessarily damage the environment, and will not result in unnecessary or undue degradation of the public lands. These determinations and the approval of the lease/grant are based on the analysis and the conditions in the FEIS, the Biological Opinion as it may be amended, the Programmatic Agreement, and other federal rules and regulations applied to public lands. On approval of the ROW lease/grant, the Applicant will be authorized to construct and operate the 4,604-acre, 663.5-MW solar project if it meets the requirements specified in the ROD. The ROD requires the Applicant to secure certification from the CEC before the BLM will issue a Notice to Proceed (NTP) to the Applicant. On receipt of the NTP, the Applicant is authorized to construct and operate the Selected Alternative on the project site.

### **1.3.2 CDCA Land Use Plan Amendment**

The management of BLM lands in the California Desert District is governed by the CDCA Plan and its amendments. The CDCA 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 CDCA Plan Amendment process. The Planning Criteria for considering a CDCA Plan Amendment are discussed in detail in Chapter 4.18, Land Use Plan Amendment Analysis in the FEIS and in Chapter 7 of the CDCA Plan.

The project site is currently classified as Multiple-Use Class M (Moderate Use) designation in the CDCA Plan. That classification is intended to provide a controlled balance between higher intensity use and protection of public lands. Public lands classified as Moderate Use 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 BLM must amend the CDCA Plan to allow the construction and operation of a solar generating project on the project site.

Based on the Multiple Use Class Guidelines provided in Table 1 in the CDCA Plan, solar uses are conditionally allowed in the Multiple Use Class M designation contingent on NEPA requirements being met for the proposed use. The FEIS for the 850-MW Agency Preferred Alternative and ROD for the 4,604-acre, 663.5-MW Modified Agency Preferred Alternative (Selected Alternative) meet NEPA requirements for consideration of the project, and the project site location. The CDCA Plan is specifically amended by this ROD to allow a solar energy generation facility on this site.

### **1.3.3 Revisions to BLM Open Routes**

In 2005, the BLM updated access plans and routes in the West Mojave (WEMO) Plan Amendment to the CDCA Plan. The WEMO Amendment<sup>1</sup> assigned and/or revised access for off-highway vehicle (OHV) routes in the project vicinity.

Currently, there are 6 Open Routes traversing the project site in the Modified Agency Preferred Alternative. Open Route access is defined in the CDCA Plan as:

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<sup>1</sup> The WEMO amendment to the CDCA Plan was challenged in District Court, and the Parties are waiting for the court's order on remedy. As a result of that litigation, the BLM intends to revisit route designation. The routes that are being closed in this ROD will be identified as closed in that revisited designation effort.

“Access on route by motorized vehicles is allowed. Special uses with potential for resource damage or significant conflict with other use may require specific authorization.”

The 8 Open Routes for the 6,215 acre Agency Preferred Alternative on the project site are listed in Table 2-6 in the FEIS. The 4,604-acre Modified Agency Preferred Alternative (Selected Alternative) project site would result in the closure of six of these eight open routes identified in the FEIS. With approval of the ROW grant, the open routes on the project site will be designated closed. The actual elimination of use of the routes will occur as the phased construction and fencing of the project occurs. The perimeter of the project site will be fenced, which will prevent public access within the Calico project site, except for access to holders of valid existing rights. There will be a road built around the site perimeter as part of the ROW grant. The perimeter route may be available for physical access for general public purposes.

The administrative process for revising designated routes given the evolving and changing priorities for public lands is described in the CDCA Plan Motorized Vehicle Access Element and the BLM guidance on the Comprehensive Travel and Transportation Management (CTTM) program (IM 2008-14). These revision processes recognize the changing contexts and need for flexibility in allowing OHV public access on BLM-managed lands. The Motorized Vehicle Access Element of the CDCA Plan (page 82) describes the process for changing the designations of vehicle access routes as:

“Decisions affecting vehicle access, such as area designations and specific route limitations, are intended to meet present access needs and protect sensitive resources. Future access needs or protection requirements may require changes in these designations or limitations, or the construction of new routes...Access needs for other uses, such as roads to private lands, grazing developments, competitive events, or communication sites, will be reviewed on an individual basis under the authority outlined in Title V of FLPMA and other appropriate regulations. Each proposal would be evaluated for environmental effects and subjected to public review and comment. As present access needs become obsolete or as considerable adverse impacts are identified through the monitoring program, area designations or route limitations will be revised. In all instances, new routes for permanent or temporary use would be selected to minimize resource damage and use conflicts, in keeping with the criteria of 43 CFR 8342.1.”

The BLM processes for revising route designations are further provided for in the CTTM policy. According to that policy, changes to a travel network in a limited area may be made through activity level planning or with site-specific NEPA analysis. While changes to area designations

(e.g. limited to open) require a plan amendment, changes to route designation (e.g. open to closed, closed to open) do not require a Land Use Plan amendment. This administrative process along with the administrative process described in the CDCA Plan is implemented to change the affected open routes on the project site to closed routes.

### **1.3.4 What is Not Being Approved**

During pre-application, the Applicant contacted BLM to evaluate a number of project site locations in which the 850MW solar power project site under application was considered potentially feasible. The project originally proposed by SES included construction of Phase I for a 500 MW solar power generation facility and a second Phase for a 350MW solar power facility adjacent to the first phase. Revised in February 2010, the proposed project site would include construction of Phase I for 275 MW of solar power generation for available electrical transmission capacity, and a second phase surrounding the first phase for 575 MW of solar power generation when additional electrical transmission is available as planned.

Applicant withdrew that proposal and submitted an application for certification to the CEC and a ROW grant application to the BLM proposing the 850-MW Alternative which was identified by the CEC and the BLM as the proposed project/action and was evaluated in detail in the SA/DEIS. The Standard Form (SF 299) (ROW grant application) submitted to the BLM by the Applicant proposed 34,000 SunCatchers generating 850 MW of electrical solar power. A total of 24 alternatives were developed for consideration in the SA/DEIS. They included alternative sites; a range of solar and renewable technologies, generation technologies using different fuels, conservation/demand-side management; a 275-MW (Reduced Acreage) alternative to the proposed 850-MW Calico Solar Project; and an alternative to avoid 1,180 acres of donated and acquired lands.

After the release of the SA/DEIS for public review, the BLM continued to consult and coordinate with Federal and State regulatory agencies regarding possible refinements to the project footprint to avoid impacts to desert tortoise habitats, rare plants, and cultural resource sites eligible for National Register of Historic Places listing. As a result of these discussions, the Proposed Action project footprint was reduced from 8,230 acres to 6,215 acres while maintaining the original 850 MW of generating capacity. This modification of the Proposed Action (Alternative 1a) is termed the Agency Preferred Alternative in the FEIS.

Subsequent to release of the FEIS, the CEC conducted its evidentiary hearings throughout the month of August on the Supplemental SA with continued participation from State and Federal regulatory agencies, the Applicant, the BLM, CEC intervenors, and others. On September 3, 2010, the CEC directed the parties to explore reduced size alternatives to the 6,215-acre, 850-MW proposal to further reduce impacts to high-value desert tortoise. The Applicant presented six proposals, and these were reduced to two proposals, Scenario 5.5: 4,604 acres, 663.5 MW



and Scenario 6: 4,244 acres, 603.9 MW) on September 9, 2010 at a CEC workshop. The 663.5 MW alternative was preferred by the CEC because it would produce more renewable energy power. It was recommended as the Presiding Member's Proposed Decision (PMPD) on September 25, 2010. This 4,604-acre project footprint is entirely contained within the boundaries of the 6,215-acre Agency Preferred Alternative analyzed in the FEIS, and as such, is considered by the BLM to be within the range of alternatives analyzed in the FEIS. It includes 26,540 SunCatchers capable of generating 663.5-MW of electricity. This Modified Agency Preferred Alternative is being approved as the Selected Alternative in the ROD. As such, the original 8,230-acre, 850-MW Proposed Action and the other action alternatives (Reduced Acreage Alternative, Avoidance of Donated and Acquired Lands Alternative; and the Agency Preferred Alternative) evaluated in the DEIS and the FEIS are not being approved.

## **1.4 Right-of-Way Requirements**

The BLM uses SF 2800-14 (ROW Lease/Grant) as the instrument to authorize the ROW lease/grant for the Calico Solar Project; it includes the Plan of Development (POD) and all other terms, conditions, stipulations, and measures required as part of the grant authorization. Consistent with BLM policy, the Calico Solar Project ROW lease/grant will include a due diligence requirement for installation of related facilities and infrastructure consistent with the approved POD. Construction of solar energy facilities must commence within two years after the effective date of the right-of-way lease/grant, and construction of subsequent phases must begin within three years of the start of construction of the previous phase, for the right-of-way holder to be compliant with the terms of the lease/grant.

## **1.5 Summary of Conclusions**

The Selected Alternative for the Calico Solar Project is the action alternative that provides the most public benefits and avoids the most cultural, biological and hydrologic resources for the following reasons:

- Based on the conditions in the BO and the ongoing consultation with the USFWS during project construction and operations, many biological resources in the area are avoided by the Selected Alternative or the impacts are substantially mitigated.
- The Selected Alternative avoids high-value desert tortoise habitat in the north portion of the project site and provides for a 6,865-foot wide desert tortoise linkage area between the north project boundary and the Cady Mountains, and requires translocation of 22 desert tortoises.
- The Selected Alternative avoids Nelson's Bighorn Sheep habitat.

- As a result of consultation with Tribal governments and representatives and the PA, the Selected Alternative avoids three cultural resource sites eligible for listing on the National Register of Historic Places and many cultural resources in the area are avoided or the impacts are substantially mitigated.
- The Selected Alternative avoids impacts to donated and acquired lands;

As a result, the 663.5-MW Alternative would result in impacts less than or similar to the other action alternatives related to cultural resources, and biological resources.

Additionally, the Calico Solar Project is expected to provide climate, employment, and energy security benefits to California and the nation. The project takes a major step toward meeting State and Federal climate change goals. The Applicant has estimated that the 663.5-MW project will provide enough clean electricity to power more than 186,000 homes.

The development of the Calico Solar Project will bring badly needed jobs to the area as well. The Calico Solar Project is expected to create an average of 400 direct, project-related construction jobs, as well as 136 permanent jobs during the project's operation.

Finally, the project will produce 663.5 MW of reliable electricity that will not be subject to changes in commodity prices or overseas conflicts.

## **2.0 Mitigation and Monitoring**

### **2.1 Required Mitigation**

The Calico Solar Project includes the following measures, terms, and conditions:

- Avoidance, Minimization, and Mitigation Measures from Chapter 4, Environmental Consequences, in the FEIS
- Terms and Conditions in the Biological Opinion provided in Appendix 2, Biological Opinion (BO)
- Terms and Conditions in the Programmatic Agreement (PA) provided in Appendix 3, Programmatic Agreement

The complete language of these measures, terms, and conditions is provided in the POD for the 4,604-acre, 663.5-MW Alternative as stipulated in the ROW grant for compliance purposes.

### **2.2 Monitoring and Enforcement (40 CFR 1505.2(c))**

#### **2.2.1 Implementing the Decision (40 CFR 1505.3)**

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases (40 CFR 1505.3). Mitigation (40 CFR 1505.2(c)) and other conditions established in the FEIS or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

- a. Include appropriate conditions in grants, permits or other approvals;
- b. Condition funding of actions on mitigation;
- c. Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures they have proposed and that were adopted by the agency making the decision; and
- d. Upon request, make available to the public the results of relevant monitoring.

The Environmental and Construction Compliance Monitoring Program (ECCMP) for the Calico Solar Project is provided in Appendix 4 of this ROD. It is also available online at the following location:

- BLM website:  
[http://www.blm.gov/ca/st/en/fo/barstow/solar\\_one\\_calico.html](http://www.blm.gov/ca/st/en/fo/barstow/solar_one_calico.html)

As the federal lead agency for the Calico Solar Project under the NEPA, the BLM is responsible for ensuring compliance with all adopted mitigation measures for the Calico Solar Project. The complete language of all the mitigation measures, terms, conditions, and stipulations, including those found in the BO, PA, ROW grant, and the CEC COCs is provided in the POD. The BLM has also incorporated this mitigation into the ROW grant as terms and conditions. Failure on the part of Calico Solar, LLC, as the grant holder, to adhere to these terms and conditions of the ROW grant could result in various administrative actions up to and including a termination of the ROW grant and requirements to remove the facility and rehabilitate disturbances.

### **2.3 Mitigation Measures Not Adopted**

As discussed above, an ECCMP for the Calico Solar Project has been adopted and is provided in Appendix 4 of this ROD. There are no BLM identified mitigation measures that have not been adopted in this ROD.

### **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 have been adopted for the Calico Solar Project. The complete language of those measures is provided in Appendix 4 of this ROD.

### **2.5 Coordination with other BLM Monitoring Activities**

In 2007, the BLM and CEC formalized a MOU for the joint environmental review of solar thermal power plant projects to be located on public lands. In September 2010, that MOU was amended to ensure that jointly reviewed and approved solar thermal power plant projects, located on public lands, are constructed, operated, maintained, and terminated in conformity with the decisions issued by the BLM and the CEC.

That MOU Amendment specifically indicates that it is in the interest of the BLM and CEC “. . . to share in construction compliance, environmental compliance, design review, plan check, and construction, maintenance, operation and termination inspection (collectively “compliance

review”) of solar thermal power plant projects on public lands, to avoid duplication of staff efforts, to share staff expertise and information, to promote intergovernmental coordination at the state and Federal levels, to develop a more efficient compliance review process, and to meet state and Federal requirements.”

As documented in the MOU Amendment, BLM will provide primary compliance oversight for the right-of-way terms and conditions that are required by the BLM and that are separate and apart from those for which the primary oversight is being administered by the CEC.

As part of the MOU Amendment, the BLM and CEC agree to communicate and cooperate in a manner in order to avoid duplication of efforts and to assist each other in effective implementation of compliance efforts for the construction, maintenance, operation, and termination of the Calico Solar Project.

The MOU Amendment is an attachment to the ECCMP provided in Appendix 4 of this ROD.

The BLM recognizes that the CEC COCs are not generally within the enforcement authority of the BLM because those COCs are requirements originating in State laws and regulations. While the Applicant must comply with those measures, they are not directly enforceable by the BLM. For those COCs that are also within the enforcement authority of the BLM because of overlapping authorities, the BLM has incorporated provisions of those COCs into its ROW grant as its own terms and conditions subject to its direct enforcement authority.

In some instances, the BLM identified potential mitigation measures for impacts to public land resources that would not be, and have not been, identified as mitigation measures required by other agencies. In those instances, individual mitigation measures were developed by the BLM which were incorporated in the ROW grant, and will be monitored and managed solely by the BLM. In addition, standard terms and conditions for approval of the use of public land were incorporated in the ROW grant and, therefore, will be enforced by the BLM as part of any ROW grant approved for the project.

The BLM is also developing a protocol for long-term monitoring of solar energy development with Argonne National Laboratories, and the U.S. Department of Energy. The draft protocol recommends the development of a comprehensive monitoring program covering a broad list of resources. The draft protocol also recommends the involvement of other federal and state agencies with a likely interest in long-term monitoring, as well as stakeholder engagement. As the protocols are finalized for this monitoring program, the BLM expects to participate fully in these endeavors and to engage solar energy applicants. As long term monitoring plans evolve, the BLM and its assigns may exercise the United States’ retained right to access the lands covered by the grant, and conduct long-term monitoring activities.



## **3.0 Management Considerations**

### **3.1 Decision Rationale**

This decision approves a right-of-way (ROW) grant for the Calico Solar Project. The Selected Alternative is the Modified Agency Preferred Alternative as previously discussed. The BLM's decision to authorize this activity is based on the rationale described in the following sections.

#### **3.1.1 Respond to Purpose and Need**

##### **3.1.1.1 Bureau of Land Management**

The BLM's purpose and need for the Calico Solar Project is to respond to the Calico Solar, LLC application under Title V of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 United States Code [USC] 1701) for a ROW grant to construct, operate, maintain, and terminate (including decommissioning) a solar energy generation facility on public lands in compliance with FLPMA, BLM ROW regulations, and other applicable Federal laws. Specifically, the BLM has decided to approve a ROW grant to Calico Solar, LLC for the 663.5-MW Selected Alternative. The BLM will also amend the *California Desert Conservation Area Plan* (CDCA Plan, 1980, as amended). The CDCA Plan, while recognizing the potential compatibility of solar generation facilities on public lands, requires that all sites associated with power generation or transmission not already identified in that plan be considered through the plan amendment process. Therefore, prior to issuance of a ROW grant for the Calico Solar Project, the BLM will amend the CDCA Plan as required to allow for solar use on the project site.

Under the Energy Policy Act of 2005, Federal agencies are directed to encourage the development of renewable energy. By entering into a MOU with the CEC, the BLM has committed to work with State and Federal agencies to achieve California's Renewable Portfolio Standards (RPS) energy goals and greenhouse gas emission reduction standards in a manner that is both timely and in compliance with Federal and State environmental laws. The purpose of the MOU is to assist with the implementation of applicable State and Federal laws, regulations, and policies.

The construction, operation, maintenance, and termination activities associated with the Selected Alternative, either singularly or with mitigation, are in conformance with the following land use plans and policies:

- BLM policy and guidance for issuing ROW grants, including BLM Manual 2801.11;
- *California Desert Conservation Area Plan* (1980, as amended); a plan amendment is required to identify the project site as one that is suitable for solar generation within the CDCA; and,
- West Mojave Plan, an amendment to the CDCA Plan, January 2005.

The Calico Solar Project 663.5-MW Alternative meets the BLM purpose and need for the project.

### **3.1.1.2 Department of Energy**

The DOE was a cooperating agency with the BLM on the FEIS. The Energy Policy Act of 2005 established a Federal loan guarantee program for eligible energy projects that employ innovative technologies. Title XVII of the Energy Policy Act authorizes the Secretary of Energy to make loan guarantees for a variety of types of energy related projects. The two purposes of the loan guarantee program are to encourage commercial use in the United States of new or significantly improved energy-related technologies and to achieve substantial environmental benefits. The purpose and need for action by the DOE is to comply with its mandate under the Energy Policy Act by selecting eligible projects that meet the goals of that Act. The 663.5-MW Alternative meets the defined DOE purpose and need.

### **3.1.2 Achieve Goals and Objectives**

The 663.5-MW Selected Alternative meets all project objectives, and is technically and legally feasible. Additionally, the BLM consulted and coordinated extensively with several parties to identify project modifications that would minimize impacts to natural and cultural resources. The 663.5-MW Selected Alternative has been found to be the environmentally preferable project.

### **3.1.3 Required Actions**

The following Federal statutes require that specific actions be completed prior to issuing a ROD and project approval.

#### **3.1.3.1 Endangered Species Act**

Under Section 7 of the federal ESA, as amended (16 USC 1531 et seq.), a Federal agency that authorizes, funds, or carries out a project that “may affect” a listed species or its critical habitat must consult with the USFWS. The BLM prepared a Biological Assessment for the USFWS in



accordance with Section 7 of the ESA for potential effects to the listed desert tortoise. The USFWS issued a BO for the Calico Solar Project which is provided in Appendix 2 to this ROD.

### **3.1.3.2 National Historic Preservation Act**

The process required under Section 106 of the NHPA has been completed for the Calico Solar Project. Section 106 compliance is in accordance with the Programmatic Agreement (PA), pursuant to 36 CFR 800.14(b)) executed by signature through the BLM, the California SHPO, Advisory Council for Historic Preservation, and other signatories in September 2010. The PA is provided in Appendix 3 to this ROD.

### **3.1.3.3 Clean Air Act**

Title 40 CFR Section 51 (Subpart W - Determining Conformity of General Federal Actions to State or Federal Implementation Plans), Title 40 CFR Section 93 (Subpart B - Determining Conformity of General Federal Actions to State or Federal Implementation Plans) and 42 USC Section 7606(c) require federal actions to comply with the requirements of the Clean Air Act (CAA). The Calico Solar Project is expected to meet the requirements of the CAA based on compliance with the project mitigation, terms, conditions, and stipulations related to emission controls and reductions during project construction, maintenance, operation, and termination.

### **3.1.3.4 Clean Water Act**

Section 404 of the federal Clean Water Act (CWA) authorizes the United Army Corps of Engineers (USACE) to regulate the discharge of dredged or fill materials into navigable waters of the United States (waters of the U.S.), including certain wetlands and other waters of the U.S. On May 5, 2010, the USACE determined that the project site does not support water resources meeting the definition of Waters of the U.S. and that a CWA permit will not be required (Appendix F in the FEIS). In the absence of waters of the U.S., a CWA Section 401 Certification from the Lahontan Regional Water Quality Control Board (RWQCB) will not be required.

### **3.1.3.5 Bald and Golden Eagle Protection Act**

In compliance with the Bald and Golden Eagle Protection Act, and based on the USFWS recommendation (memo dated September 15, 2010, available as part of the project record), the BLM will require Calico Solar, LLC to develop an Avian Protection Plan within six months of initiating facility construction.

### **3.1.4 Incorporate CDCA LUP Management Considerations**

. The record indicates that the Selected Alternative for the Calico Solar Project can be constructed on 4,604-acres of BLM-administered lands. Project construction would result in fewer significant, unmitigable impacts to biological, cultural, water, and visual resources than would occur with the other alternatives analyzed in the FEIS, with the exception of the 2,600-acre Reduced Acreage Alternative. That alternative, however, is less effective in meeting renewable energy objectives, producing only 250-MW of renewable energy compared to 663.5-MW with the Selected Alternative. The approval of the site location based upon NEPA review falls within the requirements of the CDCA Plan.

The BLM has found that 4,604 acres of land in the Selected Alternative is suitable and can be designated for solar energy development based on compliance with the requirements of NEPA. The CDCA Plan amendment applies to the public lands within the boundary of the project site for the Selected Alternative (Modified Agency Preferred Alternative) shown on Figure 6-2 in Appendix 5, Location Maps.

### **3.1.5 Statement of No Unnecessary or Undue Degradation**

Congress declared that the public lands be managed for multiple use and sustained yield, in a manner to protect certain land values, to provide food and habitat for species, and to provide for outdoor recreation and human occupancy and use (43 USC 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, balanced to take into consideration the long term needs of future generations without permanent impairment of the lands (43 USC 1702(c)). The BLM manages public land 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 USC 1711 to 1722, and 1731 to 1748). 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 USC 1732(b)).

As noted above, Congress specifically recognized multiple use and sustained yield management for the CDCA, through the CDCA Plan, providing for present and future use and enjoyment of the public lands, The 1980 CDCA land use plan, as amended, identifies allowable uses of the public lands in the CDCA. In particular, it authorizes the location of solar power generating facilities in MUC M and other land classifications upon NEPA review. The BLM has conducted that review, and as indicated in the FEIS, and in portions of this ROD, has adjusted the project to meet public land management needs and concerns. In particular, the BLM has determined that the Selected Alternative meets national renewable energy policy goals and objectives and falls within the guidelines of the CDCA Plan. In addition, the project 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 a Notice to Proceed is secured, is issued for a period of 30 years, subject to renewal and periodic review, and contains diligence and bonding requirements to further protect public land resources. This approval provides that public land will be occupied only with authorized facilities and only to the extent necessary to construct, operate, maintain and terminate the project. The BLM conditions of approval provide for public health and safety, and protect the environment and the public lands at issue. These conditions of approval include compliance with this ROD, the FEIS, the Biological Opinion, Section 106 requirements and the PA. All of these federal requirements provide the basis for BLM's determination that the project will not unnecessarily and unduly degrade these public lands. In addition, the CEC Conditions of Certification are conditions of the BLM approval of this project and provide additional protection to public land resources.

### **3.1.6 Statement of Technical and Financial Capability**

FLPMA and its implementing regulations provide the BLM with authority to require a project application to include information on an applicant's technical capability to construct, operate, and maintain solar energy facilities (43 CFR 2804.12(a) (5)). This technical capability can be demonstrated by international or domestic experience with solar energy projects or other types of electric energy-related projects on either federal or non-federal lands. Calico Solar, LLC has provided information on the availability of sufficient capitalization to carry out development, including the preliminary study phase of the project, as well as the site testing and monitoring activities.

Calico Solar LLC's statement of technical and financial capability is provided in the POD. Calico Solar, LLC, is a private enterprise that is a wholly owned subsidiary of Tessera Solar. The company recently received long-term funding from a strategic partner, NTR plc (NTR). NTR is an international developer and operator of renewable energy and sustainable waste management businesses in the United States, the United Kingdom, Ireland, and continental Europe. Based upon the information provided by Calico Solar, LLC, in its POD, the BLM has determined that it has the technical and financial capability required to construct, operate, and maintain the approved facility.

## **3.2 Relationship to BLM and Other Agency Plans, Programs, and Policies**

### **3.2.1 Tribal Consultation**

The BLM conducted government-to-government consultation with a number of Tribal governments and discussion with Tribal representatives as described in Chapter 7, Native American Consultation, Concerns, and Values, in the FEIS. The consultation and discussions revealed concerns about the importance and sensitivity of cultural resources on and near the Calico Solar Project site, concerns about cumulative effects to cultural resources, and, further, that they attach significance to the broader cultural landscape. As a result of the Native American Consultation process, many important cultural resources were identified in the project area, and subsequently avoided in the Selected Alternative.

As described later in Section 3.2.3, Section 106 and the Programmatic Agreement, the BLM also consulted with Native American Tribes and interested tribal members on the development and execution of a PA for the Calico Solar Project. In accordance with 36 CFR Part 800.14(b), PAs are used for the resolution of adverse effects for complex project situations and when effects on historic properties (resources eligible for or listed in the NRHP) cannot be fully determined prior to approval of an undertaking.

Based on the ongoing consultation with Tribal governments and representatives and the PA, many cultural resources in the area are avoided by the Selected Alternative or the impacts are substantially mitigated. As a result, the 663.5-MW Selected Alternative would result in impacts less than or similar to the other Build Alternatives related to cultural resources.

### **3.2.2 United States Fish and Wildlife Service Section 7 Consultation**

The BLM permit, consultation, and coordination with the USFWS required for the Calico Solar Project complies with the federal ESA regarding potential take of the desert tortoise.

The BLM submitted a Biological Assessment (BA) for take of the desert tortoise to the USFWS for the Calico Solar Project on April 1, 2010. After further discussion with the USFWS, the BLM provided the USFWS with a revised BA on May 17, 2010. In response to this submittal, the USFWS sent a Sufficiency Letter (dated June 21, 2010) indicating that the revised BA was sufficient to initiate formal consultation. However, the Sufficiency Letter stated that clarifications needed to be addressed in order for the USFWS to complete its BO. Upon further discussions with the USFWS, the BLM addressed these clarification needs. To address the needs of the USFWS and to summarize all of the changes made since the original BA was issued, a

Supplemental BA was issued by the BLM on July 19, 2010. The original, revised, and supplemental BAs were included as Appendix H in the FEIS. The USFWS issued a BO for the desert tortoise for the Calico Solar Project on **date**. The BO is provided in Appendix 2 of this ROD. **The BO concluded that the Calico Solar Project is likely to adversely affect desert tortoise but not jeopardize the desert tortoise species or result in adverse modification of critical habitat for that species.** Measures included in the BO would reduce any anticipated adverse impacts.

### **3.2.3 Section 106 Programmatic Agreement**

The BLM prepared a PA for the Calico Solar Project in consultation with the ACHP, the California SHPO, the CEC, interested Native American Tribes (including tribal governments as part of government-to-government consultation described earlier), and other interested parties. The executed Final PA, provided in Appendix 3 of this ROD, will govern the continued identification and evaluation of historic properties (eligible for the National Register) and historical resources (eligible for the California Register of Historic Places), as well as the resolution of any effects that may result from the Calico Solar Project. Historic properties and historical resources are significant prehistoric and historic cultural resources as determined by the BLM.

### **3.2.4 Solar Programmatic EIS**

The Office of Energy Efficiency and Renewable Energy and the BLM are preparing a Solar Energy Development Programmatic EIS (PEIS) to develop utility-scale solar energy development; to develop and implement agency-specific programs that would establish environmental policies and mitigation strategies for solar energy projects; and to amend relevant BLM land use plans with the consideration of establishing a new BLM solar energy development program. The PEIS included lands within the CDCA planning area that are open to solar energy development in accordance with the provisions of the CDCA Plan. The Calico Solar Project site is located within the boundaries of the Pisgah solar energy zone. The BLM is processing the Calico Solar Project ROW grant application and other active solar applications while the PEIS is being prepared.

### **3.2.5 Cooperation with Other Agencies**

#### **3.2.5.1 Cooperation with Other Federal Agencies**

In addition to the Federal agencies described above, the DOE, EPA and USACE cooperated with the BLM on the FEIS for the Calico Solar Project.

## **United States Department of Energy**

As discussed earlier, the DOE is the agency responsible for implementing key parts of the Energy Policy Act of 2005 including the federal loan guarantee program for eligible energy projects that employ innovative technologies. As a result, the DOE was consulted during the preparation of the FEIS and was provided a copy of the preliminary FEIS for review. The DOE did not provide any comments to the BLM on the preliminary FEIS.

## **United States Environmental Protection Agency**

The EPA provided written comments on the proposed project and the EIS preparation during the scoping period. The EPA also provided written comments on the DEIS after the formal comment period closed. The BLM subsequently responded to the EPA's comments in a separate letter to the EPA. The EPA's comments on the FEIS are included in and responded to in Appendix 1 of this ROD.

## **United States Corps of Engineers**

Project-related fill of waters of the U.S. require authorization by the Corps pursuant to Section 404 of the Federal CWA under a Standard Individual Permit subject to the CWA Section 404(b)(1) Guidelines. The Corps was consulted during the preparation of the EIS and on May 5, 2010, determined that the project site does not support water resources meeting the definition of Waters of the U.S.

### **3.2.5.2 Cooperation with State and Local Agencies**

#### **State Water Resources Control Board/Regional Water Quality Control Board**

The State Water Board works in coordination with nine Regional Water Quality Control Boards (RWQCBs) to preserve, protect, enhance and restore water quality. The RWQCBs have authority to protect surface water and groundwater. Throughout the EIS process, the BLM, CEC, and the Applicant have invited the RWQCBs to participate in public scoping and workshops and have provided information to assist them in evaluating the potential impacts and permitting requirements of the proposed project. On May 5, 2010, the USACE determined that the project site does not support water resources meeting the definition of Waters of the U.S. and that a CWA permit will not be required (Appendix F in the FEIS). In the absence of Waters of the U.S., a CWA Section 401 Certification from the Lahontan Regional Water Quality Control Board (RWQCB) will not be required.

## **California Department of Fish and Game**

The CDFG has the authority to protect water resources through regulation of modifications to streambeds, under Section 1602 of the Fish and Game Code. The BLM, CEC, and the Applicant have provided information to the CDFG to assist in their determination of the impacts to streambeds, and identification of permit and mitigation requirements. The CDFG also has the authority to regulate potential impacts to species that are protected under the California Endangered Species Act. The desert tortoise is listed under SESA. The CDFG has asserted its jurisdiction over 1,190 acres of streambeds with the Proposed Action project site. In March 2010, the Applicant submitted a Notification of Lake or Streambed Alteration for the Calico Solar Project to the CDFG.

## **San Bernardino County**

The 4,604-acre Selected Alternative contains no land under the jurisdiction of San Bernardino County. The BLM and CEC provided opportunities during scoping for the County to provide input to the environmental technical studies for the project. The County submitted comments on the DEIS and these were responded to by the BLM in Appendix G of the FEIS. The County did not submit comments on the FEIS.

## **3.3 LUP Conformance**

### **3.3.1 Conformance with the CDCA Plan**

#### **3.3.1.1 CDCA Plan**

FLPMA (43 CFR 1600, Section 501; 43 USC 1761) establishes public land policy; guidelines for administration; and provides for the management, protection, development, and enhancement of public lands. FLPMA specifically establishes BLM's authority to grant rights-of-way for the generation, transmission, and distribution of electrical energy as follows:

- (a) The Secretary, with respect to the public lands. . . [is] authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for:
  - (4) systems for generation, transmission, and distribution of electric energy

FLPMA is relevant to the Calico Solar Project because it establishes BLM's authority to grant rights-of-way on public lands for the generation, transmission, and distribution of electrical

energy (FLPMA 2001). Because FLPMA authorizes the issuance of a ROW grant for electrical generation facilities and transmission lines, the Calico Solar Project would be consistent with FLPMA.

The CDCA Plan was developed as mandated by FLPMA and is the land use management (LUP) for the Calico Solar Project site and the surrounding area within the defined CDCA. The CDCA Plan is a comprehensive, long-range plan for the management, use, development, and protection of the public lands in the CDCA. The 25-million-acre CDCA contains over 12 million acres of public lands in the California desert, which includes the Mojave Desert, the Sonoran Desert, and a small part of the Great Basin Desert. Those 12 million acres of public lands are approximately half of the total land area in the CDCA. The site proposed for the Calico Solar Project includes approximately 4,604 acres of land in the CDCA administered by the BLM.

The CDCA Plan is a comprehensive, long-range plan with goals and specific actions for the management, use, development, and protection of the resources and public lands within the CDCA, and it is based on the concepts of multiple use, sustained yield, and maintenance of environmental quality. The goals and actions for each resource are established in the 12 Elements in the CDCA Plan. Each Plan Element provides a desert-wide perspective of the planning decisions for one major resource or issue of public concern as well as more specific interpretation of multiple-use class guidelines for a given resource and its associated activities.

The 4,604-acre Calico Solar Project site is classified in the CDCA Plan as Multiple-Use Class (MUC) M (Moderate Use). The MUC M designation “. . . is based upon a controlled balance between higher intensity use and protection of public lands.” Public lands designated Class M provide “. . . for a wide variety o[f] present and future uses such as mining, livestock grazing, recreation, energy, and utility development.” This designation is also designed to conserve desert resources and to mitigate damage to resources that permitted uses may cause. The CDCA Plan ROD approved solar electrical generation plants within the Moderate Use designation. Specifically, the guidelines in the Plan provide that solar electrical generating facilities within Class M areas “. . . may be allowed after NEPA requirements are met.”

### **3.3.1.2 Need for CDCA Plan Amendment**

To accommodate the Calico Solar Project, the CDCA Plan is being amended because “Sites associated with power generation or transmission not identified in the Plan will be considered through the Plan Amendment process.” As specified in Chapter 7, Plan Amendment Process, in the CDCA Plan, there are three categories of Plan Amendments. Approval of the Calico Solar Project would require a Category 3 amendment to the CDCA Plan to accommodate a request for a specific use or activity that will require analysis beyond the Plan Amendment Decision.



The amendment to the CDCA Plan to designate (identify) 4,604 acres of the Calico Solar Project site for solar energy generation is provided in the ROD through the following LUP amendment analysis.

### **3.3.1.3 Land Use Plan Amendment Analysis**

The proposed LUP Amendment to be made by the BLM is a site identification decision only. Because the proposed solar project and its alternatives are located within MUC M, the classification designations govern the type and degree of land use action allowed within each classified area. All land use actions and resource management activities on public lands within an MUC designation must meet the guidelines for that class. MUC M allows electric generation plants for solar facilities after NEPA requirements are met. These guidelines are listed in Table 1, Multiple Use Class Guidelines, in the CDCA Plan (1980, as amended). The specific application of the MUC designations and resource management guidelines for a specific resource or activity are further discussed in the plan elements section of the CDCA Plan. In Class M designations, the CDCA Plan recognizes that tradeoffs will occur between any number of acceptable uses.

The project site for the Calico Solar Project meets the MUC Guidelines (as applicable to this project and site) for the following reasons:

**Air Quality:** Class M designated land, including the project site and the action alternatives, are to be managed to protect their air quality and visibility in accordance with Class II objectives of the Federal CAA. The worst-case emissions that would be associated with the Calico Solar Project are provided in Section 4.2, Air Quality and Climate of the FEIS. Those values were compared to emissions objectives for air quality and visibility associated with Class II areas in 40 CFR 52.51, and are below the limitations required for Class II areas. Therefore, the action alternatives conform to the Class II objectives referenced in the CDCA Plan guidelines.

**Water Quality:** Class M designated land will be managed to minimize degradation of water resources. Best management practices, developed by the BLM during the planning process outlined in the CWA, Section 208, and subsequently, will be used to keep impacts on water quality minimal and to comply with Executive Order 12088. Section 4.17, Hydrology and Water Resources, in the FEIS evaluated the alternatives for groundwater use conflicts, the potential to impact groundwater quality, and the potential to impact surface water resources. Development and operation of the Calico Solar Project raised concerns for changing storm water surface flow across the site. The incorporation of low impact development practices with limited grading, and limited removal of vegetation to maintain natural sheet flow across the site were developed by the Applicant, in coordination with the BLM, to

reduce these potential impacts. Although the BLM has not established BMPs for solar projects, it has reviewed, and agrees with the implementation of, the BMPs that would be associated with the project and its alternatives. Those BMPs were derived from a variety of sources, including those proposed by the Applicant, those required by the CEC through its Conditions of Certification, and those required for compliance with other State and Federal laws designed to protect water resources. Implementation of these BMPs, and BLM's standard terms and conditions requiring compliance with other Federal, State, and local regulations, would constitute compliance with EO 12088. Those measures are applicable to all project alternatives, and would therefore conform to the Guidelines in Table 1 of the CDCA Plan.

**Cultural and Paleontological Resources:** The guidelines for all Multiple-Use Class designated lands, including Class M lands, state that archaeological and paleontological values will be preserved and protected. Procedures described in 36 CFR 800 will be observed where applicable. Section 4.5, Cultural and Paleontological Resources, in the FEIS evaluates impacts to these resources. The PA, provided in Appendix 3 of this ROD, specifically addresses compliance with 36 CFR 800 in project construction, operation, maintenance, and decommissioning, including identification of properties listed or eligible for listing on the NRHP. The identification of the site for the project was subject to the MUC Guidelines for cultural and paleontological resource protection as is evidenced by the applicability of the Guidelines to the specific facility proposal. As such, the project and the project site are within the MUC Guidelines for cultural and paleontological resource protection established by the CDCA Plan based on implementation of the PA.

**Native American Values:** Guidelines for all Multiple-Use Class designations, including Class M designated lands, state that Native American cultural and religious values will be preserved where relevant and protected where applicable, with appropriate Native American groups consulted. Repeated efforts and opportunities were provided to allow tribal entities to raise concerns regarding the project and, as a result, the cultural guidelines with respect to requirements for consultation were met. The concerns raised are addressed in the PA in Appendix 3 of this ROD. The protection of cultural resources, as addressed in the PA, ensures that preservation and protection of cultural and religious values is accomplished in accordance with the CDCA Plan MUC guidelines.

**Electrical Generation Facilities:** On Multiple-Use Class M lands, solar generation facilities may be allowed on the project site after NEPA requirements are met. The analysis in the FEIS, which addresses all of the action alternatives, comprises the NEPA compliance required for this MUC guideline.

**Transmission Facilities:** Multiple-use Class M guidelines allow electric transmission to occur in designated right-of-way corridors. The Calico Solar Project meets this guideline for the build alternatives by locating new transmission facilities in an existing right-of-way corridor to the extent feasible.

**Fire Management:** Fire suppression measures in Class M areas will be taken in accordance with specific fire management plans, subject to such conditions as the BLM AO deems necessary. The project site is within the area covered by the BLM California Desert District and the Barstow Field Office and their relevant fire management and suppression policies. The Applicant has developed fire suppression measures that would be used for the action alternatives which are discussed in Section 4.6, Fire and Fuels, in the FEIS.

**Vegetation:** Table 1 of the CDCA Plan includes a variety of guidelines for Class M designated lands associated with vegetation. These are addressed in the FEIS as follows:

**Native Plants:** Removal of native plants in Class M areas is only allowed by permit after NEPA requirements are met, and after development of necessary stipulations. Approval of the ROW grant for the Selected Alternative would constitute the permit for such removal. The mitigation measures in the FEIS and conditions of approval described elsewhere in this ROD constitute the stipulations to avoid or minimize impacts from the removal.

**Harvesting of Plants by Mechanical Means:** Harvesting by mechanical means is also allowed by permit only. Although the action alternatives would include the collection of succulents and seeds to assist with reclamation, the removal of these items would not be done for distribution to the public. Also, the guidelines for vegetation harvesting include encouragement of such harvesting in areas where the vegetation would be destroyed by other actions, which would be the case with the action alternatives. Therefore, the action alternatives conform to this MUC guideline.

**Rare, Threatened, and Endangered Species, State and Federal:** In all MUC areas, all State and Federally listed species will be fully protected. Actions which may jeopardize the continued existence of federally listed species will require consultation with the USFWS. As evaluated in Section 4.3, Biological Resources, in the FEIS, no Federal or State listed plants would be impacted by the action alternatives.

**Sensitive Plant Species:** For Class M designated lands, identified sensitive plant species will be given protection in management decisions consistent with



BLM's policy for sensitive species management (BLM Manual 6840). The objective of that policy is to conserve and/or recovered listed species, and to initiate conservation measures to reduce or eliminate threats to BLM sensitive species to minimize the likelihood of and need for listing. No BLM sensitive plants or plant communities will be affected, as described in Section 4.3 in the FEIS.

**Unusual Plant Assemblages (UPAs):** The MUC guidelines state that identified UPAs will be considered when conducting all site-specific environmental impact analyses to minimize impact. No UPAs were identified on the project site.

**Vegetation Manipulation:** Manipulation of vegetation in Class M designated allow for mechanical control, but only after consideration of possible impacts. Vegetation manipulation is defined in the CDCA Plan as removing noxious or poisonous plants from rangelands; increasing forage production; creating open areas within dense brush communities to favor certain wildlife species; or eliminating introduced plant species. None of these actions would be conducted as part of the action alternatives. Therefore, each action alternative would conform to the guidelines.

**Motorized Vehicle Access/Transportation:** Pursuant to the CDCA LUP guidelines for designated Class M lands, motorized-vehicle use will be allowed on "existing" routes of travel unless closed or limited by the AO. In areas designated as limited use area for off highway vehicle (OHV) use, such as the site locations under consideration for the project, changes to the transportation network (new routes, re-routes, or closures) in Limited areas may be made through activity-level planning or with site-specific NEPA analysis (BLM Instructional Memorandum 2008-014). The existing designated open OHV routes on the Calico Solar Project site will be closed. These changes are made with the site-specific NEPA analysis provided in Section 4.15, Traffic and Transportation, in the FEIS.

**Wildlife Species and Habitat:** Table 1 of the CDCA Plan includes a variety of guidelines associated with wildlife species and habitat. These are addressed Section 4.3 in the Final EIS as follows:

**Rare, Threatened, and Endangered Species, State and Federal:** For all MUC designations, the CDCA Plan guidelines for wildlife require that State and Federal listed species and their critical habitat be fully protected. Actions which may affect or jeopardize the continued existence of Federally listed species will require formal consultation with the USFWS in accordance with Section 7 of the Federal ESA. As discussed in Section 4.3, the desert tortoise is federally listed. As specified in the guidelines, BLM conducted formal consultation with the USFWS in accordance with Section 7 of the Endangered Species Act. As a result

of the consultation, the Applicant is required to mitigate for 4,604 acres of desert tortoise habitat pursuant to the mitigation measures attached to this ROD in Appendix 4, the Environmental and Construction Compliance Monitoring Program.

Refer to the Biological Opinion in Appendix 2 of this ROD for the documentation regarding that USFWS consultation and measures included in the project to minimize impacts to and to protect the desert tortoise and its critical habitat. The BLM, USFWS, CEC and CDFG developed a tortoise translocation plan to protect desert tortoise.

**Sensitive Species:** For Class M designated lands, identified species would be given protection in management decisions consistent with BLM's policy for sensitive species management (BLM Manual 6840). The objective of this policy is to conserve and/or recover listed species, and to initiate conservation measures to reduce or eliminate threats to BLM sensitive species to minimize the likelihood of and need for listing. Sensitive wildlife species evaluated in Section 4.3 in the FEIS include raptors, burrowing owl, American badger, and American kit fox, and the action alternatives include extensive mitigation measures to avoid and reduce adverse impacts to these and other species.

**Habitat Manipulation:** For Class M designated lands, habitat manipulation, including chemical and mechanical vegetation manipulation, is allowed subject to environmental assessment, as is done within the FEIS for the Calico Solar Project. Therefore, the action alternatives conform to these guidelines.

**Predator and Pest Control:** Class M guidelines allow for control of depredation wildlife and pests in accordance with existing State and Federal laws. To address potential indirect impacts to desert tortoises from raven predation following the construction of the Calico Solar Project, the Applicant will be required to develop a Raven Management Plan that may include provisions for lethal control of ravens. The management plan will focus on non-lethal control methods (e.g., trash management, appropriate design of transmission line structures, removal of road-killed animals, management of surface water); if removal of problem ravens (i.e., individuals that have been shown to prey on desert tortoises through monitoring) through lethal control is determined to be necessary in the future, the Applicant will coordinate with the BLM and the US Fish and Wildlife Service to implement or fund the lethal removal.

**Reintroduction or Introduction of Established Exotic Species:**

Reintroduction and introduction of native species or established exotic species is permitted in Class M areas. The action alternatives do not involve the

reintroduction or introduction of established exotic species. Therefore, this guideline is not applicable to these actions.

**The project and the site location do not impact the following public land resources or uses:** Agriculture, Communication Sites, Livestock Grazing, Land Tenure Adjustment, Minerals, Recreation (other than route closure), Waste Disposal, Wetland/Riparian Areas, or Wild Horses and Burros. Therefore, these guidelines are inapplicable to the land use plan decision being made in this ROD.

### **3.3.1.4 Required CDCA Plan Determinations**

As discussed in Chapter 7 of the CDCA Plan, the BLM must make certain required determinations in amendments to the CDCA Plan. The required determinations and how they were made for the CDCA Plan amendment for the Calico Solar Project are provided below.

**Required Determination:** 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 the FEIS was the mechanism for evaluating and disclosing environmental impacts associated with that application. No law or regulation prohibits granting the amendment to the CDCA Plan.

**Required Determination:** 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 sites as solar generating facilities. Therefore, there is no other location within the CDCA which could serve as an alternative location without requiring a LUP amendment similar to that which is required for the project on the Calico Solar Project site. The Calico Solar Project does not require a change in the MUC classification for any area within the CDCA.

**Required Determination:** Determine the environmental effects of granting and/or implementing the applicant's request.

The FEIS evaluated the environmental effects of approving the CDCA Plan Amendment and the ROW grant application for the Calico Solar Project.

**Required Determination:** Consider the economic and social impacts of granting and/or implementing the applicant's request.

The FEIS evaluated the economic and social impacts of the Plan Amendment and the ROW grant.

**Required Determination:** Provide opportunities for and consideration of public comment on the proposed 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 (FR) June 8, 2009 (Volume 74, No. 108, pages 27176 through 27178). The EPA provided comments during the 30-day NOI scoping period. In accordance with the NOI, issues identified during the scoping period are placed in the comment categories below.

- **Issues to be resolved in the Plan Amendment:** Several comments were received regarding concerns over the loss of open space and recreational lands if the CDCA Plan was amended to allow industrial use. These comments were considered in the EIS.
- **Issues to be resolved through policy or administrative action:** All other comments received addressed specific environmental impacts and mitigation measures that each commenter requested be analyzed in the Final EIS. Those comments were considered in the EIS.
- **Issues beyond the scope of the Plan Amendment:** No comments were received which were outside of the scope of the Plan Amendment.

**Required Determination:** 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 in the FEIS. Title VI of FLPMA, as addressed in the CDCA Plan, 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 rights-of-way for the generation and transmission of electric energy. The acceptability of use of public lands within the CDCA for this purpose is recognized through the CDCA Plan's approval of solar generating facilities within MUC M. The FEIS identifies resources



which may be adversely impacted by approval of the Calico Solar Project, evaluates alternative actions which may accomplish the purpose and need with a lesser degree of resource impacts, and identifies mitigation measures which, when implemented, would reduce the extent and magnitude of the impacts and provide a greater degree of resource protection.

### **3.3.1.5 CDCA Plan Decision Criteria**

The Energy Production and Utility Corridors Element of Chapter 3 in the CDCA Plan defines specific Decision Criteria to be used by the BLM in evaluating ROW grant applications. The consideration of these Decision Criteria for the Calico Solar Project is described below.

**Decision Criterion:** Minimize the number of separate rights-of-way by utilizing existing rights-of-way as a basis for planning corridors.

The Calico Solar Project helps minimize the number of separate rights-of-way by being proposed largely within an existing utility corridor (Corridor G) as described later in this section. Electrical transmission associated with the Calico Solar Project would occur within this existing corridor.

**Decision Criterion:** Encourage joint-use of corridors for transmission lines, canals, pipelines, and cables.

Placement of the Calico Solar Project within existing Corridor G maximizes the joint-use of this corridor for electrical transmission.

**Decision Criterion:** Provide alternative corridors to be considered during processing of applications.

This decision criterion is not applicable to the Calico Solar Project. Placement of the proposed facility adjacent to existing corridors does not require designation of alternative corridors to support the Calico Solar Project.

**Decision Criterion:** Avoid sensitive resources wherever possible.

The extent to which the Calico Solar Project has been located and designed to avoid sensitive resources is addressed throughout the FEIS. The BLM and other Federal regulations that restrict the placement of proposed facilities, such as the presence of designated Wilderness Areas or Desert Wildlife Management Areas, were considered in the original siting (pre-

application) process used by the Applicant to identify potential sites for the Calico Solar Project. The project site and the configuration of the site boundary were modified in consideration of sensitive biological, hydrological and cultural resources. The alternatives analysis considered whether the purpose and need of the Calico Solar Project could be achieved in another location, but with a lesser effect on sensitive resources. That analysis indicated that the same project on an alternative site would likely result in generally similar impacts as the project on the Calico Solar project site.

**Decision Criterion:** Conform to local plans whenever possible.

The extent to which the Calico Solar Project conforms to local plans is addressed in the FEIS. The Calico Solar Project is in conformance with the San Bernardino County General Plan.

**Decision Criterion:** Consider wilderness values and be consistent with final wilderness recommendations.

The Calico Solar Project site is not in a designated Wilderness Area or Wilderness Study Area.

**Decision Criterion:** Complete the delivery systems network.

This decision criterion is not applicable to the Calico Solar Project.

**Decision Criterion:** Consider ongoing projects for which decisions have been made.

This decision criterion is not applicable to the Calico Solar Project. Approval of the Calico Solar Project would not affect any other projects for which decisions have been made.

**Decision Criterion:** Consider corridor networks which take into account power needs and alternative fuel resources.

This decision criterion is not applicable to the Calico Solar Project. The Calico Solar Project does not involve the consideration of an addition to or modification of the corridor network. However, it does use facilities located in Corridor G which were designed with consideration of both power needs and locations of alternative fuel resources.

### **3.3.2 West Mojave Plan Amendment to the CDCA Plan**

Various federal regulations, EOs, and the CDCA Plan require the BLM to designate routes of travel as Open, Limited, or Closed to vehicular travel and to assure that resources are properly managed in a multiple use context.

In 2002, in an amendment to the CDCA Plan, the BLM identified and designated many routes of travel in the *West Mojave* (WEMO) plan amendment and FEIS. That amendment to the CDCA Plan addressed travel routes within the WEMO amendment area.

The Calico Solar Project site is within the WEMO amendment area. Eight open routes are shown within the boundary of the 6,215-acre Agency Preferred Alternative Calico Solar Project site in the FEIS. The eight open routes on the Calico Solar Project site follow established dirt roads/trails on the site and are described briefly in Table 2-6 in the FEIS. The 4,604-acre Modified Agency Preferred Alternative (Selected Alternative) project site would result in the closure of six of these eight open routes identified in the FEIS, namely: AF045, AF0450, AF052, AF053, AF058 and AF298. These affected routes are shown in Figure 6-4 of Appendix 5 of this ROD.

The designated open routes on the Calico Solar Project site will be affected by the Calico Solar Project, which require closure of those open routes. Specifically, all the open routes within the project site will be closed to public access. The closure of these routes is an administrative action by the BLM taken in conformance with current BLM policy.

Under the policy provisions of the BLM Washington Office Instruction Memorandum No. 2008-014 (Clarification of Guidance and Integration of Comprehensive Travel and Transportation Management Planning into the Land Use Planning), selection and designation of individual routes within a limited use area is an implementation decision but is not a land use plan decision. All of the open routes within the Calico Solar Project site will be closed to public access. No existing grant or permit holders currently use the designated open routes which would be closed to public use. The changes to the travel network (routes) in the limited use area within the Calico Solar Project site are being closed upon the approval of the ROW authorization for the Calico Solar Project. The affected routes are described in Table 2-6 and Table 4-43 in the FEIS with the exception of Routes AF132 and AF133 which are no longer affected due to the reduction of the project footprint from 6,215 acres to 4,604 acres.

### **3.3.3 Utility Corridors**

The southern portion of the Calico Solar Project site is located within a designated utility corridor: Utility Corridor "G" in this area is approximately two to three miles wide with a centerline that generally follows the alignment of I-40. An estimated 2,178 acres of the Calico Solar Project site occupies the northern half of Utility Corridor "G" where it crosses the project

footprint. Locating parts of the Calico Solar Project within this utility corridor is consistent with the designation of those corridors by the BLM as utility corridors.

### **3.4 Adequacy of NEPA Analysis**

#### **3.4.1 In the FEIS**

The BLM used the Determination of NEPA Adequacy (DNA) worksheet to evaluate new circumstances and information that emerged after publication of the SA/DEIS to determine whether or not a supplement to the DEIS was required. Use of the DNA worksheet for this purpose is consistent with guidance in Section 5.1 of the agency's NEPA Handbook H-1790-1 (BLM 2008).

After publication of the SA/DEIS, and at the request of the BLM, the USFWS, the CDFG, and other state and federal agencies, the Applicant proposed to reduce the footprint of the Proposed Action by (1) moving the northern-border fence line of the project area approximately 4,000 feet south to create a 1,770-acre desert tortoise linkage area along the foothills of the Cady Mountains, which abut the project area on the north; (2) relocating border fence lines on the southern boundary to remove 245 acres from the project site that contain sensitive cultural resources eligible for NRHP listing; and (3) identifying 6.65 acres within the project site on which no surface disturbing activities would occur in order to protect sensitive plant species.

These modifications reduced the disturbed area of the project site from the original 8,230 acres to 6,215 acres. The proposed revisions to the footprint of the project also had the effect of avoiding surface disturbances on approximately 480 acres of the acquired and donated lands within the project site. The benefits of this modification to the Proposed Action included the following:

- Reduction in desert tortoise mortality and in numbers of desert tortoises requiring translocation
- Retention of habitat and connectivity of habitat for desert tortoises, bighorn sheep, and other wildlife along the foothills of the Cady Mountains
- Protection of the hydrologic function of high-value desert washes and associated wildlife habitat
- Protection of several species of rare plants north of the project boundary and within the 6.65 miles of environmentally sensitive areas within the project site

- Protection of cultural resources with potential for National Register of Historic Places listing
- Improved opportunity to provide BLM route connectivity along the northern perimeter of the project site
- Avoidance of impacts on lands within the previous Cady Mountains Wilderness Study Area (WSA)
- Reduction of visual impacts from observation points in the Cady Mountains WSA
- Reduction of 110 miles of access roads to SunCatchers within the project site
- Avoidance of surface-disturbance impacts on approximately 400 acres of land acquired with federal Land and Water Conservation Fund (LWCF)

The Determination of NEPA Adequacy of the SA/DEIS was included as Appendix C in the FEIS.

Based on the review documented in the DNA, the BLM concluded that the change in circumstances conforms to the applicable LUP inasmuch as the process to amend the CDCA Plan remains the same for any of the action alternatives, and that the NEPA DEIS documentation fully covers the change in circumstances described above and as reflected in the BLM identified Agency Preferred Alternative. Accordingly, the BLM determined that no supplementation under NEPA was required.

### **3.4.2 Post FEIS Assessment of NEPA Analysis**

The United States EPA's Notice of Availability of the FEIS was issued on August 6, 2010. Release of the FEIS initiated a 30-day protest period, and a 30-day public comment period, which closed on September 7, 2010. During that period, any person who participated in the planning process and believed they would be adversely affected by the proposed CDCA Plan amendment had the opportunity to protest the proposed amendment to the Director of the BLM. Five formal protest letters were filed with BLM.

Subsequent to publication of the FEIS by the BLM and the SSA by the CEC, the Presiding Committee of the CEC has conducted evidentiary hearings and has accepted and docketed additional information concerning the biological, hydrological and cultural resources of the project site, among other project information. On September 3, 2010, the Presiding Committee issued an order directing Calico Solar, LLC to present reduced-acreage project alternatives to reduce impacts to environmental resources, primarily the desert tortoise. On September 8, 2010, the Applicant filed six reduced-acreage scenarios for CEC staff review and discussion. As

a result of the CEC staff review and discussions, the Applicant proposed what is known as reduced project footprint acreage scenario 5.5 (Scenario 5.5).

Scenario 5.5 proposes 26,540 SunCatchers on a reduced project site of 4,604 acres by moving the northern project site boundary south of the FEIS Agency Preferred Alternative northern boundary, removing an additional 1,602 acres from the project. The 4,604-acre project footprint avoids approximately 92% of the 1,180 acquired and donated land acres within the original Proposed Action project site, leaving 37 acres of acquired lands and 59 acres of donated lands within the project site. In addition, Scenario 5.5 eliminates construction and maintenance of the detention basins proposed at the northern border of the project site, which were designed to intercept surface flows and detain them to remove sediments and attenuate water flows before surface waters reach the project site.

Modification of the Agency Preferred Alternative to conform to the proposed CEC Scenario 5.5 for the Calico Solar Project would reduce the potentially disturbed area of the project site described in the FEIS Agency Preferred Alternative from 6,215 acres to 4,604 acres, and reduce project power production from 850 MW to 663.5 MW. The reduced project site would eliminate impacts involving an additional 1,602 acres of high-value wildlife habitat over the FEIS Agency Preferred Alternative, and a total of 3,617 acres as compared to the Proposed Action. Scenario 5.5 is described in more detail by the CEC in its Presiding Member's Proposed Decision (PMPD) issued and website-docketed on September 25, 2010.

#### Northern Boundary Detention Basins

The Modified Agency Preferred Alternative does not include construction or maintenance of detention basins at the relocated north boundary of the project site, but includes construction of two detention basins and other storm-water control structures within the project site. The impacts of the construction and maintenance for the detention basins are analyzed for all build alternatives in the FEIS. The elimination of the detention basins from the northern boundary of the project site represents a physical change to the Calico Solar Project analyzed in FEIS.

Section 4.17.2.3 of the FEIS describes the proposed on-site detention basin and storm-water management system for the Reduced Acreage Alternative, a project site configuration similar to that of the Modified Agency Preferred Alternative, with the northern project boundary located to the south, away from the Cady Mountain drainages. The Modified Agency Preferred Alternative would require on-site storm-water management through maintenance similar to the Reduced Acreage Alternative which is analyzed in the FEIS.

#### Temporary Construction Access

The Modified Agency Preferred Alternative provides for the BNSF to build a temporary at-grade crossing in the same location where the permanent bridge crossing was identified in the FEIS

for construction. The Applicant would use the planned permanent access route during construction instead of the temporary construction access. Impacts caused by construction and operation of the revised temporary construction access would be substantially similar to those of the construction access discussed in Agency Preferred Alternative of the FEIS.

#### Temporary Diesel Generators

The Applicant has learned that SCE will not be able to provide electrical power to the project until February 2011, at the earliest. The Applicant has modified its proposal to include two Tier 3 (if available) or Tier 4 diesel generators to provide construction power until the Phase 1 upgrade of the existing SCE Pisgah substation is complete. The incremental impacts of diesel generators on air quality during construction will be insignificant when combined with the air impacts of construction equipment. Combined air impacts for the Modified Agency Preferred Alternative would be substantially the same as for the FEIS Agency Preferred Alternative.

#### Potable Water Supply

In the FEIS, the Lavic Basin Well 3 was assumed to not be suitable for potable consumption, requiring the need for potable water to be trucked to the project site. The Applicant has subsequently determined that the water supply from Well 3 would be potable with chlorination and reverse osmosis, eliminating the need for water to be trucked to the site. The incremental use of water for domestic purposes would be an insignificant change in the groundwater pumping volumes, and would have no measurable effect on groundwater.

The Modified Agency Preferred Alternative would also include an amendment to the CDCA Plan. The CDCA Plan would be specifically amended by this ROD to allow the site location for a 4,604-acre solar energy generation facility.

In response to these post-FEIS developments, the BLM used the DNA Worksheet as an internal administrative tool to assess the potential effects of these voluntary modifications to the project measures. The analysis of the proposed design changes in the DNA Worksheet is discussed as follows.

The impacts of the 4,604-acre, 663.5-MW Modified Agency Preferred Alternative project and the other action alternatives with these design changes would be essentially the same as evaluated in the FEIS. The project site and areas used for the project would be the same as evaluated in the NEPA document. These design changes for the project would not materially change or modify the project, its location, or the geographic and resources conditions analyzed in the FEIS.

The proposed project design changes would not alter the project location or project features, and would not change the operation or physical parameters of the 4,604-acre, 663.5-MW project and the other action alternatives analyzed in the FEIS. The resource values evaluated in

the NEPA documentation have not changed, nor have any adverse impacts been identified as a result of the proposed modifications to the project design features. Therefore, the modifications of the project measures for the 663.5-MW project and the other build alternatives have no effect on the analysis discussed in the FEIS, and would not result in the need for consideration of additional or different alternatives beyond the alternatives considered in the FEIS. In summary, considering that the recommended changes seek to provide additional protection to public land resources, but do not propose any physical changes to the site or proposed action, except to further reduce the project footprint, it can be determined that no further environmental analysis is warranted.





## **4.0 Alternatives**

### **4.1 Alternatives Fully Analyzed**

In addition to the Agency Preferred Alternative (Alternative 1a) described earlier, the BLM evaluated 3 other action alternatives as part of its FEIS environmental review. These include the Proposed Action (Alternative 1), Reduced Acreage Alternative (Alternative 2) and the Avoidance of Donated and Acquired Lands Alternative (Alternative 3). Additionally, a No Action alternative (Alternative 4) and two CDCA LUP amendment alternatives (Alternatives 5 and 6) were evaluated. These alternatives are described in Table 7-1 in Appendix 7, Tables, including the reasons why the alternatives were not selected. The Agency Preferred Alternative (6,215-acre, 850 MW Alternative), described in the FEIS as Alternative 1a, is also listed in that table for comparison purposes.

### **4.2 Alternatives Not Fully Analyzed**

The SA/DEIS considered a private lands alternative in detail consistent with the requirements of the California Environmental Quality Act (CEQA). This Private Lands Alternative is described in Section 2.9.1 of the FEIS and included in Table 7-2 in Appendix 7 of the ROD. The BLM considers the private lands alternative as essentially equivalent to the No Action Alternative for the purposes of the NEPA analysis, and an unreasonable alternative to the BLM for a number of reasons as explained in the FEIS. Since the BLM's responsibility related to the proposed action is whether to approve, or deny, or approve with modification an application for a Solar Project to be sited on public land, analysis of a private land alternative would be outside the scope of the analysis. Finally, approval of any specific private land alternative would remote and speculative. For these reasons, the private land alternative was eliminated from detailed study in the FEIS.

In addition to the Private Lands Alternative, several other sites and a number of technologies for renewable energy were also considered but not carried forward for detailed analysis in the NEPA analysis. Those alternatives are briefly described in Table 2-13 in the FEIS and included as Table 7-2 in Appendix 7 of this ROD, including the rationale for why they were eliminated from detailed analysis in the environmental document.

### **4.3 Environmentally Preferred Alternative**

After the release of the SA/DEIS for public review in April 2010, the BLM continued to consult and coordinate with Federal and State regulatory agencies regarding possible refinements to

the Proposed Action to further avoid impacts to biological and cultural resources on the project site. The following modifications to the Calico Solar Project, to avoid and reduce adverse impacts to the desert tortoise, bighorn sheep, sensitive plants, and cultural resources, were identified in that continued consultation:

- Moving the north project boundary to the south to create a 1,770-acre desert tortoise linkage area between the north project boundary and the Cady Mountains that would allow for east-west movement of desert tortoises, protect habitat for desert tortoises, bighorn sheep, and sensitive rare plants
- Redesigning the south project boundary to avoid 245 acres of cultural resource sites eligible for listing on the National Register of Historic Places.
- Establishing 6.65 acres of avoidance areas within the project boundary to protect identified occurrences sensitive plants

As a result of these modifications to the Calico Solar Project's Proposed Action the project footprint was modified to 6,215 acres and included as Alternative 1a: Agency Preferred Alternative in the FEIS. The BLM also identified Alternative 1a as the Environmentally Preferred Alternative in that document. Similar to the Proposed Action, Alternative 1a included 34,000 SunCatchers for a total generating capacity of 850 MW.

The footprint of the 850-MW, 6,215-acre Alternative 1a was contained within the Proposed Action 8,230-acre project site, except that 1,015 acres within the project site would be avoided and no project construction or operations would occur in those areas. Although the BLM did not anticipate this exact alternative in the DEIS, the BLM determined that the 850 MW Alternative 1a: Agency Preferred Alternative in the FEIS is essentially similar to the 850 MW Proposed Action analyzed in the DEIS in that both alternatives would be on the same site and would be constructed and operated nearly identically. The BLM documented this analysis and determination through its findings in the Determination of NEPA Adequacy (DNA) included as an Appendix to the FEIS.

#### **4.3.1 Post-FEIS**

Subsequent to release of the FEIS on August 6, 2010, the Federal and State regulatory agencies with biological and cultural resource jurisdiction for the Calico Solar Project continued to consult and coordinate with the BLM and the CEC about further modifications to the 6,215-acre, 850-MW project. The CEC posted its SSA for the Calico Solar Project on July 21, 2010, posted Part II of the SSA on August 9, 2010, and held evidentiary hearings throughout the month of August. On September 3, 2010, the CEC issued an order directing further review of new reduced footprint alternatives. The CEC was particularly concerned about the scope and

scale of impacts to high-value desert tortoise habitat that would be lost in order to construct and operate the project. In response, the Applicant presented the CEC with 6 potential modifications (“scenarios”) to the 6,215-acre, 850-MW project, including a 4,604-acre, 663.5-MW project that includes 26,540 SunCatchers (Scenario 5.5). This project modification was presented for public review and comment in the Presiding Member’s Proposed Decision on September 25, 2010. The 4,604-acre project is the Modified Agency Preferred Alternative and the Environmentally preferred Alternative, and is the Selected Alternative in this ROD.



## **5.0 Agency and Public Involvement**

### **5.1 Public Involvement Process**

The public involvement process for the Calico Solar Project and amendments to the CDCA Plan followed procedures documented in the BLM's NEPA Handbook H-1790-1 (BLM 2008) and Land Use Planning Handbook H-1601-1 (BLM 2005). Appendix 1 provides a summary of the comments received on the FEIS and the responses to those comments.

### **5.2 Scoping**

Scoping activities for the Calico Solar Project were conducted by the BLM in compliance with the requirements of the NEPA. Many of the scoping activities were conducted jointly with the CEC. The BLM's scoping activities are described in detail in a final scoping report which is available on the BLM website.

The BLM published the Notice of Intent (NOI) to prepare an EIS for the Calico Solar Project and amend the CDCA Plan in the June 8, 2009 Federal Register (Volume 74, Number 108 FR 27176-27178). The NOI included notice for the BLM's formal scoping meeting to solicit public participation and comment on the project. The NOI was accompanied by a June 8, 2009 news release publicizing the NOI and public scoping meeting. The CEC also issued a Notice of Informational Hearing and Public Site Visit and Bureau of Land Management Scoping Meeting on May 28, 2010. The scoping meeting was jointly held with the CEC's informational hearing and site visit in Barstow, California, on June 22, 2009. The meeting included presentations by the BLM, CEC, and the Applicant. The 30-day public scoping period ran from June 8 to July 7, 2009. Written comments were received from public agencies, nongovernmental organizations, and members of the general public. A summary of these scoping comments is included as Table 5-1 in the FEIS.

Subsequent to the scoping period, the CEC issued a Notice of BLM and Energy Commission Staff Data Response and Issues Resolution Workshop for the SES Solar One Project (08-AFC-13) on September 2, 2009 and a Notice of BLM and California Energy Commission Staff Workshop for the SES Solar One Project (08-AFC-13) (BLM Right-of-Way Application CACA 49537 and CACA 49539) on December 7, 2009.

### **5.3 DEIS Public Comment Period**

The joint MOU between the BLM and CEC provided for the release of a joint SA/DEIS. This document was formally released by the BLM on April 2, 2010. On that date, the EPA published an NOA in the Federal Register (Volume 75, Number 63, FR 16787) announcing the beginning a 90-day public comment period. Additionally, the BLM published an NOA for the SA/DEIS in the Federal Register (Volume 75, Number 74 FR 20376-20377) on April 19, 2010. The 90-day public comment period extended until July 1, 2010. Two public meetings were held after the publication of the SA/DEIS. The CEC facilitated the first public meeting (a staff workshop) in Barstow on April 16, 2010. Participants had the opportunity to attend in person, by telephone, and through WebEx via the Internet.

The second public meeting was held on April 28, 2010, in Newberry Springs, California. The BLM hosted this public information meeting and open house.

Because the SA/DEIS was a joint federal-state effort by the BLM and CEC, the BLM accepted and responded to all written comments received on that document in the FEIS regardless of whether they were submitted directly to the BLM or the CEC. Approximately 22 sets of written comments were received during the DEIS 90-day public comment period. Timely, written comments were received from eight individuals, one agency (San Bernardino County), and nine organizations. These comments are summarized in Appendix G of the FEIS.

### **5.4 FEIS Public Comment Period**

The BLM and the CEC prepared separate final environmental documents. Subsequent to the EPA's publication of the NOA for the FEIS in the Federal Register on August 6, 2010, the BLM accepted additional public comments for 30 days. A total of 10 written comments were received on the FEIS. The responses to substantive comments are provided in Appendix 1 to this ROD. The BLM reviewed the comments on the FEIS and determined that they did not raise any significant new circumstances or information relevant to environmental concerns associated with the Calico Solar Project. Therefore no changes to the proposed decision were determined warranted.

### **EIS Availability Information**

Copies of the Calico Solar Project FEIS are available for public review at the BLM's Barstow Field Office. Electronic copies of the FEIS were sent to public libraries throughout southern California. The document may also be viewed online at the following locations:

- BLM's California State Office website:  
<http://www.blm.gov/ca/st/en/prog/energy/fasttrack/calico/fedstatus.html>

- Barstow Field Office website:  
[http://www.blm.gov/ca/st/en/fo/barstow/solar\\_one\\_calico.html](http://www.blm.gov/ca/st/en/fo/barstow/solar_one_calico.html)

The Calico Solar Project's POD may be reviewed at the BLM's Barstow Field Office or online at <https://tesseractosolar.box.net/shared/j09n6g20f6>.

## 5.5 Protest Period

The EPA Notice of Availability of the Final EIS was issued on August 6, 2010. Release of the FEIS initiated the 30-day protest period, which closed on September 7, 2010. During that period, any person who participated in the planning process and believed they would be adversely affected by the CDCA Plan amendment had the opportunity to protest the proposed amendment to the Director of the BLM. Five formal protest letters were filed with BLM. In general, protesters were not in support of the proposed amendment and raised the following issues, among others: the range of alternatives considered; the impact analyses, including cumulative impacts; the need for a Supplemental EIS; consistency of the amendment to the CDCA Plan; consistency with other plans; impacts to cultural resources; and impacts to biological resources. All protesting parties received response letters from the BLM Director conveying the Director's decision on the concerns raised in their protests. The responses concluded that BLM followed the applicable laws, regulations, and policies and considered all relevant resource information and public input in developing the CDCA Plan Amendment/FEIS. Therefore, all protests were denied, and no changes were made to the proposed CDCA Plan Amendment decision as a result of the protests. Detailed information on protests may be found online at the following location:

- BLM Washington Office website:  
[http://www.blm.gov/wo/st/en/prog/planning/protest\\_resolution.html](http://www.blm.gov/wo/st/en/prog/planning/protest_resolution.html)

## 5.6 Summary of Consultation with Other Agencies and Entities

The BLM and the project applicant have been consulting and coordinating with public agencies that may be requested to take action on the Calico Solar Project and other interested parties as part of one or more of the following project phases: planning, scoping, public review of the DEIS, and/or public review of the FEIS. Those consultation and coordination activities are summarized in the following sections.



## **Governor’s Consistency Review**

The proposed CDCA Plan Amendment was reviewed by the Governor’s Office of Planning and Research following the issuance of the Final EIS and the proposed plan amendment, and found to be consistent with State and local plans.

## **Department of Energy**

As previously mentioned, the DOE is a cooperating agency with the BLM on the FEIS. The DOE will be issuing its own ROD for the Calico Solar Project.

## **United States Fish and Wildlife Service Consultation**

Pursuant to the Endangered Species Act Section 7 consultation requirements, the USFWS issued a Biological Opinion for the project which is provided in Appendix 2 to this ROD.

## **National Historic Preservation Act and Tribal Consultation**

A key part of a cultural resources analysis under CEQA, NEPA, and Section 106 of the National Historic Preservation Act of 1966 (NHPA) is to determine which of the cultural resources that a proposed or alternative action may affect are important or historically significant. In accordance with 36 Code of Federal Regulations (CFR) Part 800.14(b), the BLM has prepared a Programmatic Agreement (PA) in consultation with the Advisory Council on Historic Preservation (ACHP), the State Historic Preservation Officer (SHPO), the CEC, interested tribes (including Tribal governments as part of government-to-government consultation), and other interested parties. The PA will govern the continued identification and evaluation of historic properties (eligible for the National Register) and historical resources (eligible for the California Register of Historic Places), as well as the resolution of any effects that may result from the Calico Solar Project. Historic properties and historical resources are significant prehistoric and historic cultural resources as determined by the BLM. The executed PA is provided in Appendix 3, Programmatic Agreement.

## **United States Army Corps of Engineers**

Project-related fill of waters of the United States (Waters of the US) require authorization by the Corps pursuant to Section 404 of the Federal Clean Water Act (CWA) under a Standard Individual Permit subject to CWA Section 404(b)(1) Guidelines. The USACOE has determined that no Waters of the US are present within the project site. The agency’s letter of determination is included as Appendix F in the FEIS.

### **California Energy Commission**

The Calico Solar Project will require approvals from the CEC for the power generation aspects of the project. The CEC has the exclusive authority to certify the construction, modification, and operation of electric power plants in California which would generate 50 or more MW of electricity. The CEC certification is in lieu of any permit required by state, regional, or local agencies to the extent permitted by Federal law (Public Resources Code [PRC] Section 25500). The CEC must review power plant Applications for Certification (AFCs) to assess potential environmental impacts including potential impacts to public health and safety, and potential measures to mitigate those impacts (PRC Section 25519), and compliance with applicable governmental laws or standards (PRC Section 25523 (d)). The CEC staff analyses regarding the Calico Solar project were prepared in accordance with PRC Section 25500 et seq.; Title 20, California Code of Regulations, Section 1701 et seq.; and CEQA (PRC Section 21000 et seq.).

### **California Department of Fish and Game**

The CDFG provided expertise on the impacts to desert tortoise habitat and possible impacts to waters of the State. The applicant is responsible for obtaining State permits including a Section 1602 Lake and Streambed Alteration Agreement if required for the Calico Solar Project for impacts to jurisdictional state waters.

### **Summary of State, Regional, and Local Agencies Coordination**

Table 7-3 in Appendix 7, Tables, summarizes coordination with state and local agencies.



## 6.0 Final Agency Action

### 6.1 Land Use Plan Amendment

It is the decision of the Bureau of Land Management to approve the Proposed Plan Amendment to the California Desert Conservation Area Plan (CDCA Plan, 1980, as amended) to identify the project site as available for solar energy. The Proposed Plan Amendment and related Environmental Impact Statement was published on July 28, 2010 in the Federal Register. I have responded to and resolved five 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 (DOI).

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:

  
\_\_\_\_\_

Robert V. Abbey

Director

Bureau of Land Management

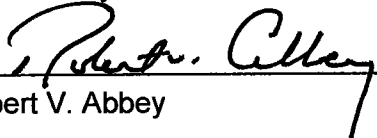
10-18-10  
\_\_\_\_\_

Date

## 6.2 Right-of-Way and Route Closure Authorization

It is my decision to approve a solar energy right-of-way lease/grant to Calico Solar, LLC, 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. It is my further decision to close routes within the solar energy power facility site as described in this Record of Decision and its Final EIS. These decisions are effective on the date this Record of Decision is signed.

Approved by:

  
\_\_\_\_\_  
Robert V. Abbey

10-18-10  
\_\_\_\_\_  
Date

Director

Bureau of Land Management

### 6.3 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 federal district court.

Approved by: Ken Salazar

OCT 20 2010

Ken Salazar

Date

Secretary

U.S. Department of the Interior



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION**

***For the CALICO SOLAR (Formerly SES Solar One)***

**Docket No. 08-AFC-13**

**PROOF OF SERVICE  
(Revised 8/9/10)**

**APPLICANT**

Felicia Bellows  
Vice President of Development  
& Project Manager  
Tessera Solar  
4800 North Scottsdale Road,  
#5500  
Scottsdale, AZ 85251  
[felicia.bellows@tesseractosolar.com](mailto:felicia.bellows@tesseractosolar.com)

**CONSULTANT**

Angela Leiba  
AFC Project Manager  
URS Corporation  
1615 Murray Canyon Rd.,  
#1000  
San Diego, CA 92108  
[angela\\_leiba@URSCorp.com](mailto:angela_leiba@URSCorp.com)

**APPLICANT'S COUNSEL**

Allan J. Thompson  
Attorney at Law  
21 C Orinda Way #314  
Orinda, CA 94563  
[allanori@comcast.net](mailto:allanori@comcast.net)

Ella Foley Gannon, Partner  
Bingham McCutchen, LLP  
Three Embarcadero Center  
San Francisco, CA 94111  
[ella.gannon@bingham.com](mailto:ella.gannon@bingham.com)

**INTERESTED AGENCIES**

California ISO  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)  
  
Jim Stobaugh  
BLM – Nevada State Office  
P.O. Box 12000  
Reno, NV 89520  
[jim\\_stobaugh@blm.gov](mailto:jim_stobaugh@blm.gov)

Rich Rotte, Project Manager  
Bureau of Land Management  
Barstow Field Office  
2601 Barstow Road  
Barstow, CA 92311  
[richard\\_rotte@blm.gov](mailto:richard_rotte@blm.gov)

Becky Jones  
California Department of  
Fish & Game  
36431 41st Street East  
Palmdale, CA 93552  
[dfgpalm@adelphia.net](mailto:dfgpalm@adelphia.net)

**INTERVENORS**

County of San Bernardino  
Ruth E. Stringer,  
County Counsel  
Bart W. Brizzee,  
Deputy County Counsel  
385 N. Arrowhead Avenue,  
4<sup>th</sup> Floor  
San Bernardino, CA 92415-  
[bbrizzee@cc.sbcounty.gov](mailto:bbrizzee@cc.sbcounty.gov)

California Unions for Reliable  
Energy (CURE)  
c/o: Loulena A. Miles,  
Marc D. Joseph  
Adams Broadwell Joseph  
& Cardozo  
601 Gateway Boulevard, Ste. 1000  
South San Francisco, CA 94080  
[lmiles@adamsbroadwell.com](mailto:lmiles@adamsbroadwell.com)

Defenders of Wildlife  
Joshua Basofin  
1303 J Street, Suite 270  
Sacramento, California 95814  
*e-mail service preferred*  
[jbasofin@defenders.org](mailto:jbasofin@defenders.org)

Society for the Conservation of  
Bighorn Sheep  
Bob Burke & Gary Thomas  
P.O. Box 1407  
Yermo, CA 92398  
[cameracoordinator@sheepsociety.com](mailto:cameracoordinator@sheepsociety.com)

Basin and Range Watch  
Laura Cunningham &  
Kevin Emmerich  
P.O. Box 70  
Beatty, NV 89003  
[atomicoadranch@netzero.net](mailto:atomicoadranch@netzero.net)

## INTERVENORS CONT.

Patrick C. Jackson  
600 N. Darwood Avenue  
San Dimas, CA 91773  
*e-mail service preferred*  
[ochsjack@earthlink.net](mailto:ochsjack@earthlink.net)

Gloria D. Smith, Senior Attorney  
**\*Travis Ritchie**  
Sierra Club  
85 Second Street, Second floor  
San Francisco, CA 94105  
[gloria.smith@sierraclub.org](mailto:gloria.smith@sierraclub.org)  
[travis.ritchie@sierraclub.org](mailto:travis.ritchie@sierraclub.org)

Newberry Community  
Service District  
Wayne W. Weierbach  
P.O. Box 206  
Newberry Springs, CA 92365  
[newberryCSD@gmail.com](mailto:newberryCSD@gmail.com)

Cynthia Lea Burch  
Steven A. Lamb  
Anne Alexander  
Katten Muchin Rosenman LLP  
2029 Century Park East,  
Ste. 2700  
Los Angeles, CA 90067-3012  
[Cynthia.burch@kattenlaw.com](mailto:Cynthia.burch@kattenlaw.com)  
[Steven.lamb@kattenlaw.com](mailto:Steven.lamb@kattenlaw.com)  
[Anne.alexander@kattenlaw.com](mailto:Anne.alexander@kattenlaw.com)

## ENERGY COMMISSION

ANTHONY EGGERT  
Commissioner and Presiding Member  
[aeggert@energy.state.ca.us](mailto:aeggert@energy.state.ca.us)

JEFFREY D. BYRON  
Commissioner and Associate Member  
[jbyron@energy.state.ca.us](mailto:jbyron@energy.state.ca.us)

Paul Kramer  
Hearing Officer  
[pkramer@energy.state.ca.us](mailto:pkramer@energy.state.ca.us)

Lorraine White, Adviser to  
Commissioner Eggert  
*e-mail service preferred*  
[lwhite@energy.state.ca.us](mailto:lwhite@energy.state.ca.us)

Kristy Chew, Adviser to  
Commissioner Byron  
*e-mail service preferred*  
[kchew@energy.state.ca.us](mailto:kchew@energy.state.ca.us)

Caryn Holmes  
Staff Counsel  
[cholmes@energy.state.ca.us](mailto:cholmes@energy.state.ca.us)

Steve Adams  
Co-Staff Counsel  
[sadams@energy.state.ca.us](mailto:sadams@energy.state.ca.us)

Christopher Meyer  
Project Manager  
[cmeyer@energy.state.ca.us](mailto:cmeyer@energy.state.ca.us)

Jennifer Jennings  
Public Adviser  
*e-mail service preferred*  
[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)



DECLARATION OF SERVICE

I, Darin Neufeld, declare that on October 20, 2010, I served and filed copies of the attached Bureau of Land Management's Record of Decision. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [www.energy.ca.gov/sitingcases/solarone].

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

*(Check all that Apply)*

FOR SERVICE TO ALL OTHER PARTIES:

- sent electronically to all email addresses on the Proof of Service list;
- by personal delivery;
- by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

**AND**

FOR FILING WITH THE ENERGY COMMISSION:

- sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

**OR**

- depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 08-AFC-13  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

\_\_\_\_\_  
Original Signed By  
Darin Neufeld