

United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Southern Nevada District Office Las Vegas Field Office 4701 N. Torrey Pines Drive Las Vegas, Nevada 89130 http://www.blm.gov/nevada

FEB 2 4 2022

In Reply Refer To: N-100225 2800 (NVS0100)

CERTIFIED MAIL

DECISION

Noble Solar, LLC

1901 Harrison Street, Suite 1600

Oakland, California 94612

Right-of-Way N-100225

Sagittarius Solar Project

Priority Determination

On November 9, 2020, the Bureau of Land Management (BLM) received an application for the Sagittarius Solar Project on public lands. The application was assigned the case number N-100225. Please refer to this number for all future correspondence relating to this case.

The BLM has reviewed and prioritized your application in accordance with the screening criteria in 43 CFR § 2804.35 and has determined your application to be a Medium priority. The rationale for the priority determination of your application is provided in the enclosed Priority Determination Worksheet. Regulations found at 43 CFR §2804.35(a) state that "High-priority applications are given processing priority over medim- and -low-priority applications..."

You may request the BLM re-categorize your application based on new information obtained through surveys, public meetings, or other data collection, or after any changes to the application. Staff time to review the new information will be limited and based on higher priority workload demands. If you submit a request for BLM to re-categorize your priority level, the BLM will determine the schedule on which we will review the information provided.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

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ARIZONA. CALIFORNIA*, NEVADA*

PARTIAL

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

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

Shonna Dooman Field Manager

Las Vegas Field Office

Enclosures

cc: Toby Butterfield (tb@primergysolar.com)

Linda Bullen 3635 W. Sahara Ave #454 Las Vegas, Nevada 89117

Interested Parties

SNDO Renewable Energy Project Priority Determination Worksheet

Project Name: Sagittarius Solar **BLM Serial Number:** N-100225

Date: February 22, 2022

Purpose: The purpose of this worksheet is to identify landscape level constraints for Solar and Wind project proposals in the Bureau of Land Management (BLM) Southern Nevada District Office (SNDO) and to prioritize the solar or wind proposal based on known resource conflicts.

This worksheet is divided into four sections. These sections evaluate each proposed solar or wind project submitted to the Southern Nevada District Office (SNDO). The sections in this worksheet are as follows:

- Section 1 identifies the prioritization of projects based on regulations (43 CFR §2804.35).
- Section 2 are local (SNDO) considerations.
- Section 3 identifies specific resources issues.
- Section 4 identifies the priority decision.

Section 1 – Regulation Compliance

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The regulatory compliance criteria below come from 43 CFR §2804.35. When completing the following form, if something is marked present or further clarification is needed please note it in the table at the end of Section 2 or if resource specific within Section 3 notes.

	Low-Priority Criteria ¹	Present	Not Present
1)	Lands near or adjacent to lands designated by Congress, the President, or the Secretary for the protection of sensitive viewsheds, resources, and values (e.g., units of the National Park System, Fish and Wildlife Service Refuge System, some National Forest System units, and the BLM National Landscape Conservation System), which may be adversely affected by development.	х	
2)	Lands near or adjacent to Wild, Scenic, and Recreational Rivers and river segments determined suitable for Wild or Scenic River status, if project development may have significant adverse effects on sensitive viewsheds, resources, and values.		X
3)	Designated critical habitat for federally threatened or endangered species, if project development may result in the destruction or adverse modification of that critical habitat.		Х
4)	Lands currently designated as Visual Resource Management Class I or Class II.		X
5)	Right-of-way exclusion areas.	·	X

¹ Lands currently designated as no surface occupancy for oil and gas development in BLM land use plans was removed from the low-priority criteria. This removal is due to the vagueness in the Las Vegas 1998 RMP.

	Medium-Priority Criteria:		Not Present
6)	BLM special management areas that provide for limited development, including recreation sites and facilities.		X
7)	Areas where a project may adversely affect conservation lands, including lands with wilderness characteristics that have been identified in an updated wilderness characteristics inventory.		x
8)	Right-of-way avoidance areas.	X	
9)	Areas where project development may adversely affect resources and properties listed nationally such as the National Register of Historic Places, National Natural Landmarks, or National Historic Landmarks.	X	
10)	Sensitive habitat areas, including important species use areas, riparian areas, or areas of importance for Federal or State sensitive species.	x	
11)	Lands currently designated as Visual Resource Management Class III.	X	
12)	Department of Defense operating areas with land use or operational mission conflicts.		х
13)	Projects with proposed groundwater uses within groundwater basins that have been allocated by State water resource agencies.	X	

	High-Priority Criteria:		Not Present
14)	Lands specifically identified as appropriate for solar or wind energy development, other than designated leasing areas.		х
15)	Previously disturbed sites or areas adjacent to previously disturbed or developed sites.	X	
16)	Lands currently designated as Visual Resource Management Class IV.	X	
17)	Lands identified as suitable for disposal in BLM land use plans.		X

Section 2 – Local Considerations

The following considerations are specific to the Southern Nevada District. The selection of "present" for any of the local considerations can change the project priority. These local considerations take into account, but are not limited to, the following secretarial orders, policy, regulation, and laws, and BLM priorities.

- 43 CFR §2804.35
- Approved Resource Management Plan Amendments/Record of Decision for Solar Energy Development in Six Southwestern Statesⁱ
- 1998 Las Vegas Resource Management Planii
- Department of the Interior Prioritiesiii
- Bureau of Land Management Leadership Prioritiesiv
- United States Fish and Wildlife Species List^v
- Nevada State Species List^{vi}
- BLM Sensitive Species List^{vii}

	Local Considerations	Present	Not Present
18)	Development is located in the Southern Nevada Public Land Management Area (SNPLMA) Boundary		Х
19)	Development is located near the proposed Southern Nevada Supplemental Airport		Х

20)	There is a Solar Energy Zone or Designated Leasing Area within the district that could be used.	X	
21)	Development is located in areas where project development may adversely affect lands acquired for conservation (e.g., SNPLMA Environmentally Sensitive Land Acquisitions such as the Perkins Ranch acquisition near the Moapa, Nevada).		х
22)	The proposed project supports economies of local Tribes		X
23)	The proposed project supports the economy of Nye County		X
24)	Development is located within an area identified for disposal		X
25)	Development is located within a utility corridor	X	
26)	Development is located within lands withdrawn from ROW authorizations		X
27)	Development is located within lands segregated from ROW authorizations.		X
28)	Development is located over another Solar or Wind Application		X see note
29)	Development may not be compatible with an existing grant, easement, lease, license, or permit.		
30)	Development is located outside of BLM jurisdiction		X
31)	Development is located on private lands		X
32)	Development is located in a USFWS least cost desert tortoise corridor.		X
33)	Development is located in or adjacent to desert tortoise translocation areas	X	
34)	Development is located over existing or active mining claims or community pit		X
35)	Development is located over or within 1000 meters of natural surface water, springs, riparian areas or wetlands	X	
36)	Development is located within a hydrogeographic basin where groundwater withdrawal could potentially impact groundwater dependent natural resources.	Х	
37)	Development is located over lands containing sensitive soil resources.	X	

When completing Sections 1 and 2, if something is marked present or further clarification is needed please include here. Please place the number in the first column that corresponds to the number in Sections 1 and 2. If the presence or clarification is resource specific provide the justification or clarification in Section 3.

Clarifications/Justifications

The Old Spanish National Historic Trail (Designated December 2002) is located less than two miles south of the proposed project area. Associated with the OSNHT, the Stump Spring high potential site is also within two miles of the proposed project area. High potential sites are those historic sites related to the route or sites near the route, which provide opportunity to interpret the historic significance of the trail during the period of its major use; criteria for consideration as high potential sites include historic significance, presence of visible historic remnants, scenic quality, and relative freedom from intrusion.

The trail corridor is informally considered by the BLM and the NPS to lie five miles on either side of the centerline of the trail alignment to include the nearest elements of the viewshed, parts of the cultural landscapes, landmarks, and traditional cultural properties near the trail. (Old Spanish National Historic Trail Comprehensive Administrative Strategy, 2017) Additional information on the potential conflicts with the OSNHT are found in the resources section.

The National Park Service has identified Areas of High Potential for Resource Conflict near Death Valley National Park which overlap approximately 2,000 acres of the 4,400 proposed project area. (Variance Factor in Solar PEIS)

8	This project is located within Solar Avoidance/Variance areas. The project is not located in an area designated as avoidance for other site type rights-of-way.	
	The project is 2.6 km north of a recorded segment of the National Register Listed Old Spanish	
9	Trail/Mormon Road Historic District and may have adverse indirect effects to the site.	
10	There is riparian habitat occurring within the current proposed project area boundary, but this could be excluded as part of boundary adjustments.	
	The project area is located partially within BLM VRM Class III (designated in the Resource	
11	Management Plan), including approximately 40 acres of the current proposed project area boundary.	
13	The proposed project area is located within the Pahrump Valley Basin, which is three times over appropriated in terms of water rights. No new water rights are available. There may be a need to purchase existing water rights and water rights to relinquish to the basin for the project to obtain water within the Pahrump Valley Basin.	
15	The project area would be adjacent to Yellow Pine Solar (N-90788) approved and currently being developed ROW. The rest of the project area looks to be undisturbed based on Google imagery.	
16	The project area is located almost entirely within BLM VRM Class IV (designated in the Resource Management Plan), including approximately 4,400 acres of the current proposed project area boundary.	
20	The Amargosa SEZ and the Dry Lake East DLA are both available for Solar Energy Development. While there is space in both an SEZ and DLA in the Southern Nevada District, neither of those located are sufficiently sized to accommodate all of the interest that is present in the district for Renewable Energy.	
25	The SNDO 1998 RMP Amargosa-Roach Designated Corridor runs through sections 7,8,17,16, and 21 of the project area. The West Wide Energy Corridor (WEC 224-225) runs through sections 7, 17,18,19,20, and 21 of the project area.	
28	This application overlaps one of the Rough Hat Nye (N-99407) gen-tie line route.	
32	Project is located in Priority 2 connectivity habitat as identified in the Solar PEIS (Variance Factor).	
33	Located adjacent to the Stump Springs translocation area (across Tecopa Springs Road), which will be fenced preventing any tortoises from moving into the project area.	
35	Sensitive riparian areas, including mesquite bosques, are located within the proposed project footprint. These mesquite woodlands provide important habitat for migratory bird species. Mesquite in southern Nevada have been impacted by development, illegal woodcutting, and ground water withdrawal throughout the district. The BLM would coordinate with the applicant to adjust the proposed project area to remove mesquite bosques and reduce potential direct impacts.	
36	The Pahrump Valley Basin is overallocated in water use permits. Any additional pumping is likely to impact groundwater dependent natural resources within the valley and adjacent valley to the southeast, depending on the depth of wells. There are several springs in the vicinity and downstream from the project area that may be impacted. BLM has water rights to some of these springs. Local riparian areas may also be impacted by additional groundwater pumping. Until additional information is gathered on proposed ground water pumping, this information is not contributing to the project priority level. If the proponent decides to include ground water pumping in the plan of development, coordination with the State Water Engineer will be required.	
37	Biocrust and desert pavement is known to exist in the general vicinity. Detailed surveys would be required to determine the density of biocrust.	

Section 3 – Resource Considerations

This section identifies the proposed projects resources conflicts. This section is to be completed by BLM resource specialists using existing data and knowledge of the area. The resource conflicts identified in this section can change the priority of the project.

Desert Tortoise

Considerations:

- Based on vegetation, soil type, and/or previous surveys, whether the project is proposed in areas expected to occur in low, medium or high density tortoise habitat.
- Whether the project is proposed in relatively undisturbed habitat.
- Whether the project is located in a tortoise genetic connectivity corridor (least cost tortoise corridor)
- The availability of an area to translocate desert tortoise within the same recovery unit from the proposed project site.

- Desert tortoise (*Gopherus agassizii*) is a BLM sensitive species and classified as threatened by the USFWS.
- Without new tortoise surveys, the density of tortoises within the project area is unknown. However, there are 10 historic tortoise surveys within 3 km of the project area that were conducted "prior to 1987" or "1987 to 1990". The density results of those surveys vary but are classified as "very low" (3), "low" (6), and "very high" (1).
- Recent tortoise surveys for the Rough Hat Nye solar project, which is located west and north of
 the proposed Sagittarius project, has similar habitat quality and an estimated adult tortoise
 density of 3.5 tortoises per km². In comparison, Rough Hat Clark solar, which is located north
 and east of the proposed Sagittarius project, has an estimated tortoise density of 14 tortoise per
 km2.
- The project is proposed in relatively undisturbed habitat.
- The project is located in high value contiguous habitat as modeled by the DTRO with the second highest conservation value in order to maintain desert tortoise connectivity on a landscape scale. The project is also located in Desert Tortoise Priority 2 habitat designated in the Solar PEIS. Even though this project is located in high value contiguous habitat, and Desert Tortoise Priority 2 habitat, the desert tortoise connectivity is being maintained in this area through limiting development north of State Route 160 and east of Tecopa Road, which are part of the BLM's regional tortoise augmentation areas (Stump Springs and Trout Canyon Translocation Areas). The project is not located within the recently outlined priority tortoise connectivity habitat and is instead located just east of Pahrump, south of State Route 160, west of Tecopa Road, and southwest of the proposed Yellow Pine Solar Project.
- The project is located in the Eastern Mojave Recovery Unit, and this recovery unit is estimated to have a decreasing tortoise density. Tortoise translocation can follow existing USFWS established protocols. Tortoise could be translocated into the Stump Springs Regional Translocation Area, which is located directly across Tecopa Road.

Other Federally Listed, State Listed, and BLM Sensitive Species Constraints

Considerations:

- Whether there are other Federally Listed, State Listed, and BLM Sensitive Species expected to
 occur at the site or have the potential to be directly or indirectly affected by the proposed
 project.
- Besides desert tortoise, there are no other known listed species in the project area.
- Other BLM sensitive species most likely occur within the project area including Phainopepla,
 Golden Eagle, LeConte's Thrasher, Loggerhead Shrike, Prairie Falcon, Scott's Oriole, Western
 Burrowing Owl, Desert Horned Lizard, Long-nosed Leopard Lizard, and Sidewinder. Impacts
 can be addressed through the normal NEPA process.
- Mesquite bosques within the project area support migratory and resident bird communities including the BLM sensitive Phainopepla.

Botany

Considerations:

- Whether the project will occur in or adjacent to habitat for any sensitive or state or federally listed species or Clark County MSHCP protected plant species.
- Whether the project occurs in major portion (>10% of any population group) of habitat for BLM sensitive plant species or MSHCP protected plant species
- Whether the project occurs in any habitat for federally endangered plant species OR Project occurs in habitat (> 5% of any population group) for state endangered plant species.

- Pahrump Valley buckwheat (*Eriogonum bifurcatum*) is a BLM sensitive species and is covered by the Clark County MSHCP. This species has a high likelihood of occurring within the project area a population was recorded immediately at the southern edge of the project boundary, and the project area has not been previously surveyed for this species.
- Because the project area has not been surveyed it is unclear what percentage of overall habitat
 for the Pahrump Valley buckwheat occurs within the project boundaries. However, given the
 density of proposed projects in this area, cumulative impacts to this species should be
 analyzed, as multiple adjacent projects have footprints that could impact habitat for this
 species.
- The project does not occur in habitat for any federally threatened or endangered plant species or in habitat for state endangered plant species.
- The project boundary does overlap mesquite bosques, which are important vegetation
 communities in southern Nevada and important habitat patches for BLM sensitive bird species.
 Proximity to the Stump Springs ACEC, which supports dense mesquite bosques and is an
 important stopover location for migratory birds, should also be considered in prioritization of
 this project.

Weed Constraints

Considerations:

- Whether there are non-native and/or noxious weed species present or adjacent to the project area.
- Whether the project activity is likely to result in the establishment of noxious/invasive weed species.
- Whether the spread of non-native and/or noxious weed species would result in impacts to the surrounding areas and whether that would have impacts to important areas such as Critical Habitat Units, ACECs, sensitive plant habitat, NCA's, National Monuments, etc.

Description of Issues:

- Comprehensive weed surveys have not been done in this area, but Mediterranean grass (*Schismus* barbatus) is a non-native species that is pervasive in the area.
- The project will contribute to weed proliferation in the area, but this can be managed through a
 thorough weed management plan and BMPs. The likelihood of weed invasion decreases when
 there is decreased soil disturbance.
- The project is across the road from the Stump Springs ACEC, which protects cultural and
 natural resources. There are currently no novel weed problems, but introduction of new weed
 species by the project and subsequent weed spread could lead to detrimental effects in the
 ACEC.

Cultural and Native American

Considerations:

- Whether there are isolated documented sites and sites within 1000 meters of the project area.
- Whether there are ineligible archaeological sites and possible Native American cultural or religious sites, including high potential areas like river terraces or springs.
- Whether there are eligible archaeological resources that require treatment and known Native American Cultural or religious sites.
- Whether there are significant eligible intact sites and undisturbed human burials.

- The majority of the proposed project area has not been inventoried for cultural resources. If the
 results for this project are like the Yellow Pine Project, or the Clark and Nye County Rough
 Hat Projects, which are adjacent to or near this project area, there is a very low probability of
 locating historic properties. A Class III Cultural Resource Inventory would be required for this
 project.
- There are no documented Isolated Objects within the project area nor within 1000 m of the project boundary.
- There are three documented ineligible archaeological sites within the project area.
- There are no documented eligible archaeological or Native American cultural or religious sites within the project area.
- There is one documented isolated cemetery that appears to be approximately 10 meters outside the proposed project area. Though it was recommended ineligible, it was recommended that the site be specially managed by the BLM as an "Indian Burial Site," which is protected under the Nevada Antiquities Law of 1889 and the Native American Graves Repatriation Act (NAGPRA).
- The project is 2 km north of the Stump Springs ACEC, which contains an eligible multicomponent archaeological site. Indirect effects to the site may be a concern.

• The project is 2.6 km north of a recorded segment of the National Register Listed Old Spanish Trial/Mormon Road Historic District and could pose indirect effects to the site.

Recreation

Considerations:

- The level of casual use recreation.
- Types and numbers of special recreation permits in the area.
- Whether the proposed project area occurs within a Special Recreation Management Area identified in a Land Use Plan that is managed specifically for recreation opportunities.
- The proposed project area occurs within a Special Recreation Management Area identified in a
 Land Use Plan that is managed specifically for recreation opportunities, and has developed
 recreation facilities (trailheads, kiosks, staging areas), in addition to having special recreation
 permitted activities.

Description of Issues:

- The area has casual use in the form of camping and OHV riding. Generally, the OHV use is moderate in the northwest portion of the boundary. Dispersed camping has a low level of use in that area.
- There is currently one potential commercial OHV SRP administered by the Pahrump Field Office that has proposed operations on existing routes across the proposed project area.
- The proposed project area does not occur within a Special Recreation Management Area.

Range / Grazing

Considerations

- Whether the project area is located in any active grazing allotment.
- Whether the development of the solar facility make grazing impossible within the active allotment (development of key forage areas or key water sites).
- Whether the project is in an allotment where Clark County has purchased the grazing
 preference to protect desert tortoise under the MSHCP (Arrow Canyon, Arrow Canyon in
 Battleship Wash, Beacon, Bunkerville, Crescent Peak, Christmas Tree Pass, Gold Butte, Hen
 Springs, Ireteba Peaks, Jean Lake, McCullough Mountain, Mesa Cliff, Roach Lake, Table
 Mountain, Toquop Sheep, Upper Mormon Mesa, White Basin).

- The project is not located in an active grazing allotment.
- Because the project is not within an active grazing allotment, it will not influence the ability of any current permittees to graze within their allotment.
- The project is not within an allotment where Clark County has purchased the grazing preference to protect desert tortoise under the MSHCP.

Section 4 - Priority Decision

Based on the BLM screening criteria found in 43 CFR 2804.35, and additional resource considerations, the project priority category has been determined to be: Medium

Justification: The Priority Decision documented above is made given the following considerations.

There are several other applications in the same geographic vicinity as this project. This project is located south of and adjacent to the Yellow Pine Solar Project which is currently authorized and beginning construction. The Final EIS for the Yellow Pine Solar Project disclosed resource conflicts with issues that could be largely resolved through best management practices and mitigation measures. Work will need to be done with the Sagittarius applicant to avoid certain impacts, such as removing areas with mesquite bosques from the proposed development area.

The Stump Springs Regional Translocation Site for desert tortoise would be available to accept tortoises from this project area. The Stump Springs Regional Long-term Monitoring Plan has already been approved by the USFWS and can be used by solar projects that translocate tortoises within the Eastern Mojave Recovery Unit.

The project area is located within two miles of the Old Spanish National Historic Trail, and is entirely within the informal trail corridor, and coordination and consultation with the National Park Service, the co-administrator of the trail, and the Old Spanish Trail Association will be required. Development of a BLM Manual 6280 Inventory and Impacts Analysis report will also be required.

The presence of Areas of High Potential for Resource Conflict near Death Valley National Park on approximately half of the proposed project area will require additional review and consideration during the variance process.

After reviewing the information provided above, this project has several potential resource conflicts across the three regulatory compliance criteria categories. Therefore, the project is determined to be a Medium Priority for processing.

Shonna Dooman

Field Manager

Las Vegas Field Office

Concurrence / Non-Concurrence

Angelita S. Bulletts District Manager

Southern Nevada District

2/23/2022

¹ BLM, 2012a. "Approved Resource Management Plan Amendments/Record of Decision for Solar Energy Development in Six Southwestern States." October.

ii BLM. 1998. "Record of Decision for the Approved Las Vegas Resource Management Plan and Final

Environmental Impact Statement." October.

iii https://www.doi.gov/ourpriorities

iv https://blmspace.blm.doi.net/wo/600/commtools/SitePages/Leadership%20Priorities.aspx

v https://ecos.fws.gov/ecp0/reports/species-listed-by-state-report?state=NV&status=listed

vi http://heritage.nv.gov/species/process.php

vii https://www.blm.gov/policy/nv-im-2018-003









