



***Bureau of Land Management
Protest Resolution Report***

**Rough Hat Clark Solar
Project Final Environmental
Impact Statement and
Proposed Resource
Management Plan
Amendment**

January 8, 2025

This page intentionally left blank.

Contents

Acronyms	ii
Introduction	1
Protesting Party Index	2
Endangered Species Act	3
FLPMA: Multiple Use.....	4
FLPMA: Unnecessary or Undue Degradation.....	5
NEPA: Range of Alternatives	6
References	10

Acronyms

Term	Definition
1998 RMP	1998 Las Vegas Resource Management Plan
ACEC	Area of Critical Environmental Concern
BA	Biological Assessment
BLM	Bureau of Land Management
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
DEIS	Draft Environmental Impact Statement
EIS	Environmental Impact Statement
ESA	Endangered Species Act
FEIS	Final Environmental Impact Statement
FLPMA	Federal Land Policy and Management Act
IBLA	Interior Board of Land Appeals
NEPA	National Environmental Policy Act
PRMPA	Proposed Resource Management Plan Amendment
Rough Hat	Rough Hat Clark Solar Project
SEZ	Solar Energy Zone
U.S.C.	United States Code
USFWS	U.S. Fish and Wildlife Service
VRM	Visual Resource Management

Introduction

The Bureau of Land Management (BLM) Las Vegas Field Office released the Rough Hat Clark Solar Project (Rough Hat) Final Environmental Impact Statement (FEIS) and Proposed Resource Management Plan Amendment (PRMPA) on November 1, 2024. The BLM Director received seven properly filed, unique protest letter submissions during the subsequent 30-day protest period, which ended on December 2, 2024.¹

The planning regulations at 43 Code of Federal Regulations (CFR) 1610.5-2 outline the requirements for filing a valid protest. The BLM evaluated all protest letters to determine which protest letters were complete and timely, and which persons have standing to protest. All seven letters were timely. Of the seven complete letters, six were from parties who had standing to protest. Four of those protest letters contained valid protest issues. The BLM documents the responses to the valid protest issues in this protest resolution report. The protest decision is recorded in writing along with the reasons for the decision in this protest resolution report.

After careful review of the report by the BLM's Assistant Director for Resources and Planning, the Assistant Director concluded that the BLM Nevada State Director followed the applicable laws, regulations, and policies and considered all relevant resource information and public input. The Assistant Director addressed the protests and issued a Protest Resolution Report to protesting parties and posted the report on the BLM's website; no changes to the Rough Hat FEIS/PRMPA were necessary. The decision was sent to the protesting parties by certified mail, return receipt requested. Consistent with the BLM Delegation of Authority Manual (MS-1203 Delegation of Authority), resolution of protests is delegated to the BLM Assistant Director for Resources and Planning, whose decision on the protest is the final decision of the U.S. Department of the Interior (43 CFR 1610.5-2(b)).

The report is divided into sections, each with a topic heading, excerpts from individual protest letters, a summary statement of the issues or concerns raised by the protesting parties, and the BLM's response to the protests.

¹ BLM planning regulations at 43 CFR 1610.5-2(a)(1) provide that “protest[s] shall be in writing and shall be filed with the Director.” In the Notice of Availability of the Rough Hat FEIS/PRMPA (89 Fed. Reg. 87594), in accordance with BLM policy, the BLM explained that “[a]ll protests must be in writing and mailed to the appropriate address (found in the instructions for filing a protest) or submitted electronically through the BLM National NEPA Register project website (see ADDRESSES). Protests submitted by any other means will be invalid.” The BLM's instructions for [Filing a Plan Protest](#) provide that “[a]ll protests must be in writing and filed with the BLM Director, either electronically via BLM's ePlanning website or as a hard copy by the close of the protest period. The only electronic protests the BLM will accept are those filed through ePlanning. All protest letters sent to the BLM via fax or e-mail will be considered invalid unless a properly filed protest is also submitted.” The Basin and Range Watch and Western Watersheds Project submitted a letter regarding the Rough Hat Clark PRMPA to the BLM via email. This submission does not comply with the BLM's instructions for filing a protest with the BLM Director under 43 CFR 1610.5-2(a)(1) and was therefore determined to be invalid.

Protesting Party Index

Letter Number	Protestor	Organization	Determination
PP-NV-RH-EIS-24-01	Carl van Warmerdam	Deep Sea Defenders	Dismissed – Comments Only
PP-NV-RH-EIS-24-02	Mathew Giltner	Nevada Offroad Associates	Dismissed – No Standing
PP-NV-RH-EIS-24-03	Ed LaRue	Desert Tortoise Council	Denied
PP-NV-RH-EIS-24-04	Heather Gang	–	Dismissed – Comments Only
PP-NV-RH-EIS-24-05	Patrick Donnelly	Center for Biological Diversity	Denied
PP-NV-RH-EIS-24-06	Megan Labadie	Nye County	Denied
PP-NV-RH-EIS-24-07	Leah Bahramipour	Sierra Club Toiyabe Chapter	Denied
	Olivia Tanager	Sierra Club Toiyabe Chapter	
	Mason Voehl	Amargosa Conservancy	

Endangered Species Act

Sierra Club Toiyabe Chapter & Amargosa Conservancy

Leah Bahramipour, Olivia Tanager, and Mason Voehl

Issue Excerpt Text: The FEIS is inconsistent with ESA Sections 7(a)(1) and (2) because it illustrates the BLM’s failure to use its authority to ensure the preservation and recovery of the desert tortoise. The Endangered Species Act requires the BLM to use its authority to ensure the preservation and recovery of the Mojave desert tortoise, yet the FEIS illustrates the BLM failure to evaluate an alternative that meets this mandate. ESA Section 7(a)(1) requires the BLM to “utilize [its] authorit[y] in furtherance of ... carrying out programs for the conservation of endangered species and threatened species” including the preservation and recovery of the desert tortoise. This is more than a generalized duty; it requires agencies to consult, develop programs, and “take whatever actions are necessary to ensure the survival of each [listed] species.” The Act’s legislative history is replete with statements that Congress intended this affirmative duty to be taken literally and seriously by agencies. Accordingly, Section 7(a)(1) requires agencies to take actions that will tend to increase endangered and threatened species’ populations.

ESA Section 7(a)(2) requires every federal agency to ensure that any agency action is not likely to jeopardize the continued existence of a listed species. To jeopardize the continued existence means “to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

The Center for Biological Diversity, in their DEIS comments, pointed out that compliance with Section 7(a)(2) is accomplished through the consultation procedures specified in the ESA and its implementing regulations. BLM must complete its consultation obligations before authorizing any “irreversible or irretrievable commitment of resources” in connection with the Project.

However, the FEIS Proposed Action does not meet this mandate. Based on the information presented in the EIS and the best available scientific information, the proposed action would “reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery” of a of the desert tortoise “by reducing the reproduction, numbers, or distribution of that species.” The project’s impacts thus meet the definition of “jeopardy” under the ESA.

Summary:

A protestor claims that the BLM’s approval of the Rough Hat FEIS/PRMPA would violate the Endangered Species Act (ESA) because it fails to ensure the preservation and recovery of the Mojave desert tortoise.

Response:

Section 7(a)(2) of the ESA requires Federal agencies to ensure that their proposed actions are not “likely to jeopardize the continued existence of any [listed] species or result in the destruction or adverse modification of the critical habitat of such species” (16 United States Code [U.S.C.] 1536(a)(2)). If an agency determines through a finding in a biological assessment that a proposed action may affect listed species or designated critical habitat, formal consultation is required (50 CFR 402.14(a)). Rough Hat FEIS/PRMPA Section 4.4 (p. 4-4) provides information regarding the BLM’s consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the ESA for the project. As stated in this section, “the BLM prepared a Biological Assessment (BA) to evaluate the potential impacts of the project on species listed as threatened or endangered under the ESA and on designated critical habitats within the project area. The BLM submitted the BA to the USFWS to

initiate formal Section 7 consultation on January 12, 2024. The USFWS signed the Biological Opinion on June 10, 2024, and the formal Section 7 consultation is complete.” The USFWS amended the Biological Opinion on October 9, 2024, to include the addition of initial Mojave desert tortoise surveys and health assessments on the project site (USFWS 2024b). The BA and Biological Opinion are available for review on the BLM’s ePlanning website (<https://eplanning.blm.gov/eplanning-ui/project/2019992/570>), and both include extensive discussion of potential impacts on the Mojave desert tortoise and its habitat. The Biological Opinion includes detailed mitigation and minimization measures that the BLM and the Applicant must implement to reduce potential impacts on the tortoise. The USFWS’s Biological Opinion concluded that the project is not likely to jeopardize the continued existence of the Mojave desert tortoise and issued an incidental take statement, thereby concluding the consultation process under ESA Section 7(a)(2) (USFWS 2024a, p. 57).

As described in Appendix G of the Rough Hat FEIS/PRMPA, “the BLM in consultation with USFWS, seeks to conserve desert tortoise while carrying out other regulatory responsibilities including FLPMA. The BLM and USFWS require surveys to gather data and for this Project, desert tortoises would be translocated to the nearby Stump Springs Regional Augmentation Site, which are allowable conservation decisions per the definitions in the Endangered Species Act (16 U.S.C. § 1532(3)). The Endangered Species Act does not require federal agencies to implement preservation as the highest priority. Rather, federal agencies must ensure that authorized actions are not likely to jeopardize the continued existence of federally listed species or destroy or adversely modify designated critical habitat (16 U.S.C. § 1536(a)(2)). Through consultation, the Biological Opinion, and implementation of all required stipulations, the BLM will ensure that the Project will not jeopardize the continued existence of the desert tortoise species, or the Project will not be approved.” (Rough Hat FEIS/PRMPA, Appendix G p. 94).

The BLM developed the Rough Hat FEIS/PRMPA in compliance with the ESA. Accordingly, this protest issue is denied.

FLPMA: Multiple Use

Nye County

Megan Labadie

Issue Excerpt Text: Federal Land Management and Policy Act (FLPMA) The Final EIS purports to account for multiple-use mandated by Federal Land Policy Management Act (FLPMA). Multiple-use makes the most judicious use of the land for some or all resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions...and takes into account a combination of balanced and diverse resource uses for various resources and multiple values. It is defined as a harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit of output. Nye County argues that the proposed project is not a harmonious management of the various resources available to this specific plot of land. Solar development will in fact remove the proposed land use from multiple use, including during the potential de-commissioning of the facility.

Summary:

A protestor claims that the Rough Hat FEIS/PRMPA does not comport with the Federal Land Policy and Management Act’s (FLPMA) direction that the BLM generally manage public lands under principles of multiple use and sustained yield by prioritizing solar development over other land uses,

effectively removing the area in the proposed project right-of-way from multiple use through the duration of the solar facility.

Response:

Section 302(a) of FLPMA directs the BLM to manage public lands on the basis of multiple use and sustained yield, unless otherwise provided by law (43 U.S.C. 1732(a)). Section 103(c) of FLPMA defines “multiple use” as the management of public lands and their various resource values so that they are used in the combination that will best meet the present and future needs of the American people (43 U.S.C. 1702(c)).

Multiple use does not mean that all uses must be allowed on all areas of public lands. Rather, the BLM has wide latitude to allocate public lands to particular uses, and to employ the mechanism of land use allocation to protect certain resource values, or, conversely, develop some resource values to the detriment of others, short of unnecessary or undue degradation. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses, which necessarily involves tradeoffs between competing uses. Such tradeoffs are consistent with, and indeed inherent in, managing public lands under principles of multiple use and sustained yield.

Here, as stated in Section 2.1.1 of the Rough Hat FEIS/PRMPA, a purpose of the Rough Hat FEIS/PRMPA is to amend the 1998 Las Vegas Resource Management Plan (1998 RMP; BLM 1998) to reclassify the area of the proposed project from Visual Resource Management (VRM) Class III to VRM Class IV. Amendment of the 1998 RMP (BLM 1998) would be necessary, as the Proposed Action cannot be modified to conform with VRM Class III objectives (Rough Hat FEIS/PRMPA, p. 2-1).

The PRMPA would not make any other modifications to allocations or management direction in the 1998 RMP, and reclassification of the project area to VRM Class IV does not itself preclude any land uses. The 1998 RMP provides management of 3.3 million acres of public lands, and land use allocations and management directions include “development of minerals, rights-of-way, land tenure, recreation opportunities, access, grazing, wildlife habitat, cultural resources, and other special areas with natural resource preservation objectives” (Rough Hat FEIS/PRMPA, p. 3.17-6). As discussed in Rough Hat FEIS/PRMPA Section 1.8.2, the Proposed Action and alternatives do not have the potential significantly impact land uses relating to mineral resources, livestock grazing, National Historic Trails, and lands with wilderness characteristics, among others (Rough Hat FEIS/PRMPA, p. 1-9).

Following facility decommissioning and reclamation activities, lands associated with the Proposed Action would be reclaimed and returned to their pre-project state to the extent feasible. Lands associated with the Proposed Action would remain under the management of the BLM and would be available for use in accordance with applicable land use plans (Rough Hat FEIS/PRMPA, p. 3.9-6).

The Rough Hat FEIS/PRMPA satisfies FLPMA’s direction that the BLM manage public lands under principles of multiple use and sustained yield (unless otherwise directed by law). Accordingly, this protest issue is denied.

FLPMA: Unnecessary or Undue Degradation

Center for Biological Diversity

Patrick Donnelly

Issue Excerpt Text: The FEIS shows that BLM failed to adequately consider the impacts of the proposed plan amendment and reasonable alternatives to the proposed project in the context of

FLPMA. As explained in our comments for the BLM to approve any of the action alternatives here without a more thorough evaluation of whether the footprint could be reduced or shifted out of the highest density desert tortoise areas violates the requirement to avoid unnecessary or undue degradation. Further, because high quality desert tortoise habitat with confirmed thriving desert tortoise populations is a finite resource, and there is no need, from the public perspective, to use these particular lands for solar energy development, destroying that finite resource for energy development results in undue and unnecessary degradation.

Summary:

A protestor stated that the Rough Hat FEIS/PRMPA would violate FLPMA and the National Environmental Policy Act (NEPA) by failing to protect public lands from unnecessary or undue degradation because it does not consider alternatives that would reduce impacts on desert tortoise habitat.

Response:

Section 302(b) of FLPMA requires that “in managing the public lands the Secretary [of the Interior] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands” (43 U.S.C. 1732(b)).

The Rough Hat FEIS/PRMPA provides for the balanced management of public lands in the planning area. The Rough Hat FEIS/PRMPA identifies appropriate allowable uses, management actions, and other mitigation measures that prevent the unnecessary or undue degradation of public lands. Appendix B of the Rough Hat FEIS/PRMPA outlines the design features and mitigation measures that would be required as conditions of any right-of-way, should the BLM decide to approve the project. As described further in the NEPA – Range of Alternatives section of this report, the BLM considered a reasonable range of alternatives in the Rough Hat FEIS/PRMPA, and analyzed three alternatives in detail, including Alternative 1 – Resources Integration Alternative. The BLM explained that Alternative 1 “was found to have lesser effects to Mojave desert tortoise and other wildlife habitat, vegetation, sensitive soils, and water resources,” and it was the BLM’s preferred alternative in the Rough Hat FEIS/PRMPA (Rough Hat FEIS/PRMPA, Appendix G p. 9).

The Rough Hat FEIS/PRMPA would not authorize uses of public lands that would result in “unnecessary or undue degradation of the lands” under Section 302(b) of FLPMA. Accordingly, this protest issue is denied.

NEPA: Range of Alternatives

Desert Tortoise Council

Ed LaRue

Issue Excerpt Text: The FEIS shows that BLM failed to adequately consider the impacts of the proposed plan amendment and reasonable alternatives to the proposed project in the context of FLPMA because alternative sites could have far less impacts to desert tortoise and its habitat including connectivity such as previously disturbed and degraded areas of public lands and alternative types of solar projects on rooftops and/or in the urban environment should have been considered that would avoid the impacts to public lands resources.

Desert Tortoise Council***Ed LaRue***

Issue Excerpt Text: BLM’s failure to adequately comply with NEPA, as detailed herein and in earlier comments, also shows that adoption of the proposed Plan Amendment will violate FLPMA requirements. As the Interior Board of Land Appeals has stressed, “[t]o the extent BLM failed to meet its obligations under NEPA, it also failed to protect public lands from unnecessary or undue degradation.” Island Mountain Protectors, 144 IBLA 168, 202 (1998). . . . The inadequacies in the environmental review required by NEPA for the plan amendments include, but are not limited, to the following: failure to consider a reasonable range of alternatives that would avoid or lessen impacts including an ACEC alternative; failure to adequately account for the status of the desert tortoise and its habitat along with direct, indirect, and cumulative impacts to the species and its ability to survive and recover; and ignoring newer data and scientific information in considering the proposal.

Desert Tortoise Council***Ed LaRue***

Issue Excerpt Text: The BLM also wrongly dismissed consideration of designating an Area of Critical Environmental Concern (ACEC) in this area as an alternative plan amendment. Because this area is important for local desert tortoise populations and connectivity BLM should have considered (and adopted) an ACEC in this area as an alternative to the proposed project.

Center for Biological Diversity***Patrick Donnelly***

Issue Excerpt Text: The Center opposes the proposed plan amendment and issuance of a right of way for the proposed Rough Hat Solar Project because BLM consideration under FLPMA and NEPA is inadequate including by failing to consider alternatives that would avoid devastating impacts to desert tortoise on site and cumulatively across the landscape.

Center for Biological Diversity***Patrick Donnelly***

Issue Excerpt Text: BLM’s failure to adequately comply with NEPA, as detailed herein and in earlier comments, also shows that adoption of the proposed Plan Amendment will violate FLPMA requirements. As the Interior Board of Land Appeals has stressed, “[t]o the extent BLM failed to meet its obligations under NEPA, it also failed to protect public lands from unnecessary or undue degradation.” Island Mountain Protectors, 144 IBLA 168, 202 (1998). . . . The inadequacies in the environmental review required by NEPA for the plan amendments include, but are not limited, to the following: the purpose and need statement is unreasonably narrow; failure to adequately consider groundwater consumption and impacts; failure to consider a reasonable range of alternatives that would avoid or lessen impacts including an ACEC alternative; and failure to adequately address conservation needs of the desert tortoise and its habitat along with direct, indirect and cumulative impacts to the species and its ability to survive and recover.

Nye County***Megan Labadie***

Issue Excerpt Text: Throughout the NEPA process for the subject project, the department urged BLM to consider Dry Lake Valley, North Las Vegas, Indian Springs, and Jean, Nevada as areas more suitable for the project location, but the BLM did not consider the request (County-submitted comments are attached). These locations meet slope and proximity to transmission line requirements by the developer, as well as other more desirable features favorable for siting. There are overlapping solar applications all throughout Amargosa Valley and the Southern Nevada Economic Development Act has not passed, so the suggested considerations should not have prevented the proponent from seeking a site outside of the Pahrump Valley region, which would

avoid the impact concerns listed in this protest letter as well as additional impacts that are not included but may be in prior comments provided by this department during the NEPA process.

***Sierra Club Toiyabe Chapter & Amargosa Conservancy
Leah Bahramipour, Olivia Tanager, and Mason Voehl***

Issue Excerpt Text: The BLM failed to consider a reasonable range of alternatives and rejected several reasonable alternatives without a detailed analysis. Most notably, the EIS fails to consider any alternative that would relocate the project to the Amargosa SEZ instead of priority desert tortoise habitat, provide less than 400 MW, or incorporate measures to reduce water use.

Summary:

Protestors stated that the BLM’s approval of the Rough Hat FEIS/PRMPA would violate NEPA by failing to consider a reasonable range of alternatives that would avoid or lessen impacts on desert tortoise and its habitat and other resources, such as an alternative that would establish an ACEC; alternative project locations, including in the Amargosa Solar Energy Zone; an alternative using previously disturbed land; and alternative project design or size. Additionally, protestors stated that the purpose and need statement is unreasonably narrow; that the BLM failed to account for direct, indirect, and cumulative impacts on the desert tortoise and impacts from groundwater consumption; and that the BLM failed to consider recent data and scientific information regarding impacts on desert tortoise.

Response:

NEPA requires agencies to analyze a reasonable range of alternatives, but not every possible alternative to a proposed action: “In determining the alternatives to be considered, the emphasis is on what is ‘reasonable’ rather than on whether the proponent or applicant likes or is itself capable of implementing an alternative. ‘Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.’” (BLM NEPA Handbook, H-1790-1, at 50, citing Question 2a, CEQ, *Forty Most Asked Questions Concerning CEQ’s NEPA Regulations*², March 23, 1981; see also 40 CFR 1502.14.) Also, the Council on Environmental Quality’s (CEQ) 2022 NEPA regulations state, “Reasonable alternatives means a reasonable range of alternatives that are technically and economically feasible, and meet the purpose and need for the proposed action” (40 CFR 1508.1(z)). Additionally, agencies are allowed to dismiss an alternative from detailed analysis (40 CFR 1502.14(a)). The agency must briefly discuss the reasons for having dismissed the alternative from detailed analysis (40 CFR 1502.14(a)). An alternative may be eliminated from detailed study if it is determined not to meet the proposed action’s purpose and need; it is determined to be unreasonable given the BLM mandates, policies, and programs; it is substantially similar in design to an alternative that is analyzed; its implementation is speculative or remote; or it is technically or economically infeasible (BLM Handbook, H-1790-1, Section 6.6.3).

² The BLM is aware of the November 12, 2024, decision in *Marin Audubon Society v. Federal Aviation Administration*, No. 23-1067 (D.C. Cir. Nov. 12, 2024). To the extent that a court may conclude that the CEQ regulations implementing NEPA are not judicially enforceable or binding on this agency action, the BLM has nonetheless elected to follow those regulations at 40 CFR 1500–1508, in addition to the Department of the Interior’s procedures/regulations implementing NEPA at 43 CFR 46, to meet the agency’s obligations under NEPA, 42 U.S.C. 4321 et seq.

The need for the BLM's action is to respond to the Applicant's request for a right-of-way authorization to construct, operate, maintain, and decommission a proposed solar facility and interconnect to the regional transmission system on public land (Rough Hat FEIS/PRMPA, pp. 1-1-1-2). The purpose and need statement appropriately describes relevant federal policies and the BLM's responsibility to consider applications under Title V of FLPMA.

The BLM developed a reasonable range of alternatives that meet the purpose and need and that address resource issues identified during the scoping period.

During the initial planning process, the BLM prepared an Alternatives Report (Panorama Environmental, Inc. 2024), which was incorporated by reference into the Rough Hat FEIS/PRMPA. The Alternatives Report explains how the agency, based on initial environmental review and input during the scoping process, developed alternatives and determined which alternatives that were reasonable and would be analyzed in detail. The Alternatives Report also includes the rationale as to why specific alternatives were not carried forward for detailed analysis. The Alternatives Report can be accessed on the project website: <https://eplanning.blm.gov/eplanning-ui/project/2019992/510>.

The BLM analyzed three alternatives in detail, which are described in Chapter 2, *Proposed Action and Alternatives*, of the Rough Hat FEIS/PRMPA: the Proposed Action, Alternative 1 – Resources Integration Alternative, and the No Action Alternative. The alternatives analyzed in the Rough Hat FEIS/PRMPA comply with NEPA's requirement to include a reasonable range of alternatives.

The BLM considered an alternative that would designate the south Pahrump Valley as an ACEC for desert tortoise habitat, as requested by protestors (Rough Hat FEIS/PRMPA, pp. 2-22-2-23; see also Rough Hat FEIS/PRMPA, Appendix G Section 3.2.2). As the BLM described in the Rough Hat FEIS/PRMPA and in response to comments, designating an ACEC that would exclude solar development in the Pahrump Valley, including the project site, would not achieve the BLM's purpose and need for this federal action, which is to respond to the right-of-way application for the project submitted by the Applicant, pursuant to Title V of FLPMA (43 U.S.C. § 1761). Additionally, the BLM determined that designation of an ACEC for the remainder of the Pahrump Valley, but excluding the project site, would not directly be related to the purpose and need for the BLM's action. Although it is beyond the scope of the Rough Hat FEIS/PRMPA, the BLM did consider whether an ACEC to protect desert tortoise habitat in this area would be appropriate. "The BLM determined that desert tortoise habitat in the project area had 'relevance' based on presence throughout the project area (43 CFR § 1610.7-2(a)(1), MS-1613.11(A)), but did not meet the 'important' criterion (43 CFR § 1610.7-2(a)(1), MS-1613.11(B))" (Rough Hat FEIS/PRMPA, p. 2-22). Further discussion of the BLM's determination is presented in Section 2.5.3, *Alternatives Considered but Eliminated from Detailed Study* (Rough Hat FEIS/PRMPA, pp. 2-22-2-23).

Rough Hat FEIS/PRMPA Section 2.5.3, *Alternatives Considered but Eliminated from Detailed Study* further outlines additional alternatives that were considered but not analyzed in detail, including a private land alternative, brownfield/degraded land alternative, and other BLM-administered land alternatives, each of which considered variations in project siting. However, these alternatives were not carried forward for detailed analysis as site selection was ultimately based on factors such as available acreage, topography, proximity to highways, and existing major transmission infrastructure with available capacity adjacent the site (Rough Hat FEIS/PRMPA, pp. 2-24-2-25).

Under the Rough Hat FEIS/PRMPA, three alternatives were analyzed in detail: the Proposed Action, Alternative 1 – Resources Integration Alternative, and the No Action Alternative. In Chapter 3 of the Rough Hat FEIS/PRMPA, the BLM describes potential direct, indirect, and cumulative effects of implementing the alternatives on 16 resource categories, including wildlife and migratory birds (Section 3.4), threatened and endangered species (Section 3.5), and water resources (Section 3.18). The BLM provides a detailed discussion on potential impacts on Mojave desert tortoise under each alternative, including direct, indirect, and cumulative impacts in Section 3.5, *Biological Resources* –

Threatened and Endangered Species (Rough Hat FEIS/PRMPA, pp. 3.5-1–3.5-24). The BLM considered up-to-date information and data to analyze potential impacts on desert tortoise (Rough Hat FEIS/PRMPA, Appendix G pp. 9–10). Similarly, the BLM discusses potential groundwater use and impacts under each alternative in Section 3.18, *Water Resources*, and Appendix G, Section 3.2.3.

The BLM considered a reasonable range of alternatives in the Rough Hat FEIS/PRMPA in compliance with NEPA. Accordingly, this protest issue is denied.

References

- Bureau of Land Management (BLM). 1998. Record of Decision for the Approved Las Vegas Resource Management Plan and Final Environmental Impact Statement. October. Available online: <https://eplanning.blm.gov/eplanning-ui/project/78155/570>.
- Panorama Environmental, Inc. 2023. Bureau of Land Management Rough Hat Clark Solar Project Visual Resources Technical Report. NVN-099406. May. Available online: https://eplanning.blm.gov/public_projects/2019992/200523600/20102543/251002543/2023-06-02_RHC_Visual%20Report_compressed.pdf.
- Panorama Environmental, Inc. 2024. Bureau of Land Management Rough Hat Clark Solar Project Draft Alternatives Report. NVN-099406. January. Available online: https://eplanning.blm.gov/public_projects/2019992/200523600/20102629/251002629/Rough_Hat_Clark_AlternativesReport_508.pdf.
- U.S. Fish and Wildlife Service (USFWS). 2024a. Biological Opinion on the Rough Hat Clark Solar Project, Clark County, Nevada. June 13. Available online: https://eplanning.blm.gov/public_projects/2019992/200523600/20122298/251022278/2022-0054972-S7-001%20002%20BLM%20Rough%20Hat%20Clark%20Solar%20FINAL.pdf.
- U.S. Fish and Wildlife Service (USFWS). 2024b. Amendment to the Biological Opinion for the Rough Hat Clark Solar Project (File No. 2022-0054972-001), Clark County, Nevada to include Mojave desert tortoise health assessment requirements. October 9. Available online: [2022-0054972-001 BLM Rough Hat Clark Solar BO Amendment.pdf](https://eplanning.blm.gov/public_projects/2019992/200523600/20122298/251022278/2022-0054972-001_BLM_Rough_Hat_Clark_Solar_BO_Amendment.pdf).