

LEGAL UPDATES

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Service

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## BLM Releases Mitigation Strategies for Arizona, Colorado and Nevada Solar Energy Zones

On March 4, 2016, the U.S. Department of the Interior's Bureau of Land Management (BLM) released its final regional mitigation strategies for development of solar energy projects in Solar Energy Zones (SEZs) in Arizona and Nevada, as well as its draft strategy for such development in Colorado. By developing a consistent approach to mitigating unavoidable impacts that result from solar energy project development, the strategies may reduce uncertainty about mitigation requirements, streamline the process for mitigating impacts, and reduce the time and expense associated with mitigation activities and project approvals.

### Western Solar Plan

Public lands are fertile ground for development of renewable energy projects in the Western United States. However, the Federal Land Policy and Management Act of 1976 requires BLM to manage public lands for multiple uses while protecting the environment. In addition, the National Environmental Policy Act requires BLM to consider the environmental impacts of its actions, including granting rights-of-way authorizing solar energy development. Where a project's impacts cannot be avoided or minimized, BLM may determine that mitigation of those impacts is warranted.

To allow BLM to respond more efficiently to requests to site solar energy projects on public lands and to increase consistency in mitigation, BLM and the U.S. Department of Energy released the Western Solar Plan in 2012. The plan identifies specific SEZs and variance areas in Arizona, California, Colorado, Nevada, New Mexico and Utah and establishes best management practices and design features to minimize the impacts from solar development

in those areas. Impacts in each SEZ are addressed in detail in the SEZ's regional mitigation strategy report.

## **Regional Mitigation Strategies**

The final mitigation strategy for Arizona addresses development in the following SEZs:

Agua Caliente (Yuma County) – 2,021 acres of developable area with up to 328 MW generation capacity.

Brenda (La Paz County) – 1,906 acres of developable area with up to 305 MW generation capacity.

Gillespie (Maricopa County) – 2,231 acres of developable area with up to 357 MW generation capacity.

The final mitigation strategy for Nevada addresses development in the Dry Lake Valley North SEZ (Lincoln County), with 25,069 acres of developable area and up to 2,869 MW generation capacity.

The draft mitigation strategy for Colorado addresses development in the following SEZs:

Antonito Southeast (Conejos County) – 9,712 acres of developable area with up to 1,554 MW generation capacity.

De Tilla Gulch (Saguache County) – 1,064 acres of developable area with up to 170 MW generation capacity.

Los Mogotes East (Conejos County) – 2,650 acres of developable area with up to 424 MW generation capacity.

These generation capacities assume that only 80 percent of the developable area in each SEZ will be used for solar development.

Each report contains a description of the state's SEZs, including existing rights-of-way and potential for development; solar development impacts; avoidance areas; and programmatic design features for minimization of impacts. Each report also contains:

Preliminary findings and recommendations on the residual impacts of utility-scale solar development in the SEZ that may warrant regional compensatory mitigation.

Mitigation actions that can be implemented to compensate for those impacts.

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A calculation of the recommended mitigation obligation for each SEZ, including a discussion of management of mitigation obligations.

Evaluation of mitigation sites and actions.

A plan for monitoring.

The mitigation obligations are site-specific and can vary widely. For instance, the recommended per-acre fee for the Colorado SEZs is \$3,213, while the recommended per-acre fee for the Gillespie SEZ is \$4,573.

### **What This Means to You**

The regional mitigation strategies are intended to incentivize development in SEZs by streamlining the approval process and cutting the time and expense required. The final strategies for the Arizona and Nevada SEZs are effective immediately.

BLM will accept public comments on the draft strategy for the Colorado SEZs until April 16, 2016, with the final strategy to be issued later this spring. Submitting comments on the proposed strategy could impact the locations in which BLM will approve solar energy projects in the Colorado SEZs and the mitigation obligations BLM will impose for such projects. Our Energy & Natural Resources team can help you understand and assess the potential impacts of these strategies on your proposed solar energy projects.

### **Contact Us**

Husch Blackwell's Solar Energy team represents companies in all phases of development and financing of renewable projects. For additional information on solar development in the Arizona or Nevada SEZs or for assistance filing comments on the draft mitigation strategy for the Colorado SEZs, contact John Crossley at 816.983.8339, Ali Nelson at 303.749.7263 or Megan Caldwell at 314.480.1648.