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Lead NEPA Story: Bureau of Land Management draft analysis could advance Nevada leasing zone

(Greenwire, 10/19/2018) Scott Streater, E&E Reporter

The Bureau of Land Management has released the draft analysis of a proposed leasing zone for solar power projects in southern Nevada that it says would help promote utility power development.

BLM's draft environmental assessment (EA) evaluates the impacts of commercial-scale solar power development in a region considered to have some of the best solar resources in the country.

The proposed Dry Lake East Designated Leasing Area (DLA) would cover 1,800 acres

about 10 miles northeast of Las Vegas in a region where the solar power industry has developed large-scale projects.

The draft EA, which also evaluates a proposed resource management plan amendment needed to develop large-scale solar in the region, is a significant advancement of the proposal BLM unveiled last spring. The draft EA is now open for a 30-day public comment period through Nov. 19.

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Clean Air Act: Standards too weak—evidence in draft EPA report

(Greenwire, 10/16/2018) Sean Reilly, E&E Reporter

EPA issued a new draft report acknowledging evidence that its current standards for airborne fine particulates are not tight enough to adequately protect public health.

A "causal relationship" exists between short-term exposure to fine particulates and the risk of premature death, according to the draft report, formally known as an integrated science assessment.

EPA's current annual standard, set in 2012, is 12 micrograms per cubic meter of air. But the report notes that U.S. studies "indicate a linear relationship at levels as low as" 5 micrograms per cubic meter. Particularly vulnerable are children, based on "strong evidence of impaired lung function growth," and minorities, the draft adds.

Spanning almost 1,900 pages, the draft appears to have been posted online yesterday, but EPA

press aides did not reply to an emailed request for confirmation. Its release marks a milestone in EPA's latest review of the national air quality standards for particulate matter, which are associated with an array of heart and lung ailments. While the draft stops short of making policy recommendations, it in effect offers a roundup of the scientific research to be considered in the review.

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That review, required under the Clean Air Act, was launched with a workshop in 2015 and was originally supposed to conclude in 2021. But it has already fallen well behind that schedule; the draft report, for example, was originally scheduled for release in spring of last year.

In addition, EPA officials and an outside review panel known as the Clean Air Scientific Advisory Committee are now proceeding under new ground rules put in place in May by Scott Pruitt, then the agency's administrator. Those rules call for the review's completion late 2020; they also require the committee, usually known by its acronym as CASAC, to examine potential "adverse" economic and energy effects that could result from changes to the standards.

Environmental and public health groups say that requirement could undercut effects to strengthen air pollution limits. They also reacted with alarm last week when acting EPA Administrator Andrew Wheeler fired what was in effect a CASAC subcommittee intended to add more scientific expertise to the review of the particulate matter standards.

An EPA spokesman has said that Wheeler's decision was consistent with the Clean Air Act and CASAC's charter. Wheeler last week also named five new members to the committee, the bulk of them from state and local regulatory agencies as opposed to the scientific research community.

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The committee has tentatively scheduled a meeting for Dec. 12-13 in Washington, D.C., to consider the draft report, Chairman Tony Cox said in an email this morning.

Under the Clean Air Act, EPA is supposed to review the standards for particulate matter, ozone and four other common pollutants every five years, although the agency has hitherto rarely met that deadline.

The last review of the particulate matter thresholds wrapped up in 2012. At that time, EPA decided to cut the annual standard for fine particulates from 15 micrograms per cubic meter of air to 12 but left the 24-hour standard unchanged at 35 micrograms per cubic meter of air.

In the latest review, "any recommendations and advice for revisions will be developed through this and other meetings and discussions," Cox, a Denver-based consultant, said in the email, "and no decisions on them have yet been made."

The *Integrated Science Assessment for Particulate Matter (External Review Draft)* may be viewed at <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=341593>.

***NEPA and Related Laws:* Trump administration waives more environmental protections**

(*Greenwire*, 10/11/2018) Niina Heikkinen, E&E News reporter

The Trump administration is again waiving requirements under a host of environmental laws to allow construction of parts of the president's long-promised U.S.-Mexico border wall.

The Department of Homeland Security is making the move to allow for the construction of roads and physical barriers in parts of Hidalgo County, Texas.

That includes waiving protections under the National Environmental Policy Act, Endangered Species Act, Clean Water Act, Clean Air Act and National Historic Preservation Act.

Conservation groups warn that the waivers — which appeared in today's *Federal Register* — could disrupt a protected area for rare migratory birds and other species that connects private, state and federal land.

The waivers will apply to sections of land ranging from 0.25 to 8 miles, totaling about 18 miles in the Rio Grande Valley.

This includes a 2.4-mile stretch of land beginning at the eastern edge of the Santa Ana National Wildlife Refuge, home to the endangered jaguarundi, and reaching to the western boundary of the Monterrey Banco tract of the Lower Rio Grande Valley National Wildlife Refuge.

Both refuges also provide critical habitat protections for ocelots, another endangered wildcat. The region protected by the Lower Rio Grande Valley National Wildlife Refuge is known as a "wildlife corridor" protecting animals traveling east to west inland from the Gulf of Mexico, according to Defenders of Wildlife.

Jamie Rappaport Clark, president and CEO of the nonprofit conservation group, called the construction of the border wall "unnecessary, expensive and damaging."

"Waiving environmental, health and safety laws, and purposely excluding the public from providing input on wall construction threatens wildlife, local communities and regional economies in the Southwest," Clark said in a statement.

This is not the first time DHS has decided to waive environmental protections to ease construction of the border wall.

In August, Defenders of Wildlife joined the Center for Biological Diversity and the Animal Legal Defense Fund in petitioning the Supreme Court to overturn a district court decision to uphold similar DHS waivers in California.

In January, the Trump administration also waived protections for a 20-mile stretch of land in New Mexico.

While conservationists warned that the latest waived protections would throw away tens of millions of dollars of investment in establishing the wildlife corridor over the last 40 years, DHS has maintained that the construction is necessary to prevent illegal immigration and drug trafficking.

Echoing language in previous waivers, DHS Secretary Kirstjen Nielsen stated that there is "an acute and immediate need" to construct barriers in the area, which for the last few years has seen the largest number of undocumented alien apprehensions of any U.S. Border Patrol sector.

According to the DHS notice, in fiscal 2017, the Border Patrol apprehended 137,000 undocumented immigrants and seized approximately 260,000 pounds of marijuana and 1,200 pounds of cocaine.

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***Clean Water Act:* Judge orders EPA to manage river temperatures for salmon**

(*Greenwire*, 10/18/2018) Jeremy P. Jacobs, E&E reporter

A federal judge yesterday ordered EPA to regulate water temperatures in the Columbia and Snake rivers that have caused the deaths of hundreds of thousands of threatened salmon and steelhead.

Judge Ricardo Martinez for the federal district court in Seattle said EPA has unlawfully delayed the temperature regulation for 17 years.

"EPA has failed to undertake its mandatory duty to issue a temperature [total maximum daily load

(TMDL)] under the [Clean Water Act]," Martinez, a George W. Bush appointee, wrote.

The Columbia River is the largest river in the Pacific Northwest, with a basin approximately the size of France. The Snake River is its largest tributary. The river system once held the largest salmon populations in the world, with the Snake River historically sustaining a third of those runs.

Dams along the rivers and climate change have imperiled many of those salmon and steelhead species. More than a dozen are listed as endangered or threatened, and many are at "high risk" of extinction.

At issue in the lawsuit brought by Columbia Riverkeeper, Snake River Waterkeeper, Idaho Rivers United, the Pacific Coast Federation of Fishermen's Associations and the Institute for Fisheries Resources are the rising river temperatures caused by dams and other point-source discharges.

The fish require cold water to migrate from the ocean back to the rivers and spawn. When the water is warmer than 68 degrees Fahrenheit, migration becomes difficult. If the temperature exceeds 73 degrees, migration stops altogether.

Temperatures in the rivers have frequently exceeded 68 degrees during summer months in recent years, leading to an incident in 2015 in which 250,000 adult sockeye salmon died. That year, endangered Snake River sockeye had a survival rate of 4 percent, Martinez noted.

Conservationists, fishing groups, and Washington, Oregon and Idaho have been pressing EPA to issue a regulation, or TMDL, for temperature in the rivers.

In October 2000, the three states signed an agreement on the issue but deferred to EPA to write the rule.

The agency released a "preliminary draft" in July 2003 but never finalized it. The conservation groups say the Army Corps of Engineers, which operates dams on the rivers, pressured EPA not to move forward with it.

Under Martinez's ruling, EPA has 30 days to approve or disapprove a temperature regulation and, if it disapproves the one currently under consideration, another 30 days to issue a new one.

"Because of today's victory," Brett VandenHeuvel, executive director of Columbia Riverkeeper, said in a statement, "EPA will finally write a comprehensive plan to deal with dams' impacts on water temperature and salmon survival."

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***Climate Change:* Scientists publish guidance on impacts of global warming**

(*Greenwire*, 10/19/2018) Nathaniel Gronewold, E&E reporter

Conservationists are hoping to better organize and streamline the study and protection of species threatened by climate change via a new working paper.

It doesn't amount to a standardized approach for endangered species management, says the lead author, but a team with the International Union for Conservation of Nature says guidance will help biologists and wildlife managers when conducting climate change vulnerability assessments, or CCVAs.

The paper comes on the heels of the latest report by scientists of the Intergovernmental Panel on Climate Change warning that humanity has barely a decade left to begin seriously tackling the threat.

For some wild species, it's too late. The IUCN guidance was inspired in part by the fate of the Bramble Cay melomys, a rodent previously endemic to a northern Australian island but now determined to have been driven to extinction by climate change, specifically rising seas and higher storm surge.

Wendy Foden, an IUCN member and an associate professor of botany and zoology at Stellenbosch University in South Africa, said the practice of species CCVA is a rapidly emerging field, even though climate change is already included as a threat to some endangered species on IUCN's famous Red List.

She said the new paper, published in the online journal *WIREs Climate Change*, will help

"assessors' overall approach to reviews, including how to choose the appropriate methods for their species and circumstances, make best use of available data and avoid common pitfalls."

"Climate change is exerting pressure on almost all species, but working out how many are currently facing a threat to their survival from it is a major challenge, not least because it's rapidly increasing," said Foden.

"Another challenge is that climate change worsens other threats like habitat loss, disease and invasive species, making attributing declines to climate change difficult," she said.

Foden co-authored the new guidance with 17 scientist colleagues, an international team of biologists and zoologists from Australia, Canada, Italy, South Africa, Switzerland, the United Kingdom and the United States.

Aside from advising on species' climate change vulnerability assessments, the scientists hope

that by publishing the new paper, they will revive interest in management of endangered species affected by global warming. Foden argued that attention to the plight of climate-sensitive species has fallen by the wayside.

The latest IPCC warning was especially alarming, she acknowledged.

"When our field began in the early 1990s, there were no examples of climate change impacts on species," she said.

"Just two decades later, such impacts are commonplace; tens of thousands of species have been impacted, across every ecosystem on the planet, yet now they barely catch attention," said Foden, "even though each example is a unique tale of plants or animals struggling to survive."

The *International Union for Conservation of Nature (IUCN) Species Survival Commission (SSC) Guidelines for Assessing Species' Vulnerability to Climate Change* may be viewed at <https://portals.iucn.org/library/node/46241>.

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It could lead to a finding of no significant impact and at least an unsigned decision record authorizing the new leasing area. But based on public comments and other research, it could also lead BLM to determine it needs a environmental impact statement (EIS) that is much more involved.

"The DLA is a good opportunity for renewable energy production on public lands and we look forward to receiving input from the public on this proposal," Gayle Marrs-Smith, manager of BLM's Las Vegas Field Office, said in a statement.

If established, the Dry Lake East DLA would be just east of the Dry Lake Solar Energy Zone (SEZ) established by the Obama administration. The Dry Lake SEZ has been a major success, sparking development of three large-scale solar power projects capable of producing 442

megawatts of electricity — enough to power about 132,000 homes.

BLM says in press materials concerning the draft EA that the goal of establishing the Dry Lake East DLA is to eventually hold "a competitive lease auction for photovoltaic solar development" at the site.

The Dry Lake East DLA would be different from the 19 SEZs established by the Obama administration after years of study to determine suitable spots for commercial-scale solar projects with low natural and cultural resource impacts.

Unlike the SEZs, the DLA designation does not commit the agency to solar development alone and could include other renewable energy projects, though BLM has said the solar industry has expressed interest in developing projects in the area.

The Dry Lake East DLA continues the recent trend by the Trump administration to advance large-scale solar development on federal lands, particularly in Nevada and California.

BLM in August released a draft EIS for the 450 MW Desert Quartzite Solar Project, which would cover about 3,800 acres of federally managed lands in Riverside County, just southwest of Blythe, California.

Desert Quartzite is one of three large-scale solar proposals in California that BLM has targeted to be approved by 2019, along with EDF Renewable Energy Inc.'s 500 MW Palen Solar Project and Recurrent Energy's 450 MW Crimson Solar Project — all three of which are in Riverside County.

In Nevada, BLM announced last summer it would prepare an EIS for the 690 MW Gemini Solar Project, which would be among the largest power-producing solar plants ever approved on federal lands.

In addition, BLM in May announced it would analyze the 250 MW Yellow Pine Solar Project, proposed to be built about 32 miles west of Las Vegas.

The *Draft Resource Management Plan Amendment Environmental Assessment for Dry Lake East Designated Leasing Area* may be viewed at https://eplanning.blm.gov/epl-front-office/projects/nepa/86813/159908/195548/Dry_Lake_East_Designated_Leasing_Area_Draft_Environmental_Assessment_.pdf.

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