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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
**State Land Use Planning Advisory Council**

August 4, 2023

U.S. Department of the Interior  
Director (630)  
Bureau of Land Management  
1849 C Street N.W., Room #5646  
Washington, DC 20240  
Attention: 1004-AE78

Re: 1004-AE78 – Rights-of-Way, Leasing, and Operations for Renewable Energy, Proposed Rule

The Nevada State Land Use Planning Advisory Council (SLUPAC), under my signature, is providing this letter, approved by SLUPAC on August 4, 2023, to comment on the Rights-of-Way, Leasing, and Operations for Renewable Energy, Proposed Rule (1004-AE78) which would reduce fees nationwide and facilitate renewable energy development in identified priority areas, while maintaining appropriate flexibility to ensure a fair return for the use of the public's lands.

SLUPAC is the only Governor-appointed council that has a county representative from each of Nevada's seventeen counties as well as the Nevada Association of Counties (NACO), the Nevada League of Cities and Municipalities, and the Nevada Indian Commission. SLUPAC provides recommendations and expertise on land use planning and natural resources issues and advises the State Land Use Planning Agency regarding the development of plans and statements of policy.

As drafted, the Proposed Rule can be interpreted to align with the viewpoints and biases of any party or affiliation. Therefore, SLUPAC's first comment is that regulations should be written in a way to remove, as much as possible, subjectiveness and open interpretation.

The Proposed Rule puts the cart before the horse. The Bureau of Land Management (BLM) should prioritize completing the update to the Western Solar PEIS/RMP as well as the Nevada-Wide Resource Management Plan (RMP) Modernization Project before implementing the Proposed Rule. Prioritizing these significant land use plan and policy updates will help any additional renewable energy development in Nevada resulting from the Proposed Rule being programmed within a thoughtful and vetted planning framework. SLUPAC urges the BLM to complete these collaborative land use planning projects and establish a plan to guide responsible renewable energy development that balances local and multiple use resources needs before promoting further development under the Proposed Rule.

SLUPAC's comments below are intended to help clarify the intent and application of the Proposed Rule should BLM move it forward.

### **Keep Renewable Benefits Close to the Source**

Renewable energy development on public lands in Nevada should be done in a way that positively contributes to the overall quality of life and economy of the entire state. Nevada Revised Statutes 704.7821 mandates that 50% of Nevada's energy must come from renewable energy or energy efficiency measures by 2030. In recent years, Nevada has made significant strides with the development of innovative renewable energy projects that support Nevada and the Nation's energy goals. Today, there are nearly 100 renewable energy and transmission projects that are under construction or planned in every county of the state. Additionally, these projects encompass several hundred thousand acres of public lands that, if completed, would nearly achieve the entire desired gigawatt energy capacity of the Energy Act of 2020. However, most of these projects will export electricity and their renewable energy benefits out of state. Any prospective renewable energy development on Nevada's public lands should first benefit the state's renewable energy goals, Nevada's economy, and its citizens.

SLUPAC appreciates the language in the Proposed Rule to consider the full life cycle impacts of renewable energy deployment. The Proposed Rule's promotion of domestically sourced materials for renewable energy is laudable to further reduce land use planning conflicts on Nevada's lands. For example, domestic manufacturing reduces the embodied energy of renewable energy products and ultimately maximizes the overall benefit of the power produced. At the end of a project's life cycle, decommissioning standards, particularly the location and method for disposing of renewable energy equipment, should be set to minimize or avoid end-of-life impacts on host communities.

### **Promote Smart from the Start Energy Development**

At its July 9, 2021 meeting, SLUPAC endorsed the "smart-from-the-start" approach to renewable energy planning. This planning strategy guides renewable energy development to lands that are already impacted, such as former mine sites, brownfields, former agricultural lands that are no longer in production, and other disturbed areas. The BLM should prioritize a smart-from-the-start approach to energy development by speeding up rights of way and leasing approvals and reducing fees in areas that are already disturbed. Taking a smart from the start energy planning approach to renewable energy development on Nevada's public lands will also minimize land use planning conflicts, avoid multiple-use conflicts, reduce the loss of Animal Unit Months (AUM), mitigate wildlife impacts, reduce land consumption, conserve natural resources, address associated waste streams, and beneficially re-purpose disturbed land.

Identifying and prioritizing lower-impact areas where renewable energy generation, storage, and transmission can be reliably deployed with as little impact as possible to Nevada's communities, natural lands, cultural resources, recreation, and other future land uses are critical. Without an updated land use plan that promotes a smart-from-the-start approach to renewable energy development, the Proposed Rule will risk creating unnecessary land use planning conflicts and impacts to Nevada's resources. SLUPAC believes Nevada's renewable energy goals can be met through projects sited on previously disturbed areas.

## **First Prioritize Nevada-Wide Resource Management Plan (RMP) Modernization Project**

During our November 10, 2022 meeting, SLUPAC endorsed the Nevada-Wide RMP Modernization Project proposed by BLM's Nevada State Office. The average age of a Nevada RMP is more than 22 years. They are overdue for update. A transparent public process to modernize Nevada's RMPs would establish a land use plan for responsible renewable energy development along with balancing the other multiple use resource needs on Nevada's public lands. SLUPAC believes an RMP modernization that comes with better vetting, tracking and mapping of renewable energy proposed on public lands will help local stakeholders understand the full scope of approved and pending renewable energy projects. SLUPAC again emphasizes that updating the Nevada's RMPs will lead to more responsible renewable energy development and should be completed before further advancing the Proposed Rule.

## **Consistency with Local Land Use Management Plans**

With almost 70% of Nevada's land area under BLM management, the economies and land use plans and policies of Federally recognized Indian Tribes (Tribes), state agencies, and local governments will be impacted by the decisions and land allocations made through, or flowing from, the Proposed Rule. Due to its large Federal land ownership, Nevada will be disproportionately impacted by the proposed public lands rule compared to other states. Some counties in Nevada have as much as 97% of the land within their jurisdiction managed by the federal government which means that these areas are already compromised to be able to generate economic activity and tax base. Renewable energy development on public land has the potential to further burden these local areas.

For example, in recent years, the BLM has processed applications for large scale solar projects in Nevada that do not have any available water resources. Additionally, BLM has approved large scale renewable energy projects on public lands that resulted in the abandonment of conforming, non-public land development projects on adjacent lands due to the conflicting and competing land uses. Instead of promoting and incentivizing renewable energy projects that are inconsistent with local land use plans, the BLM needs to better coordinate renewable energy development with State, Local, and Tribal land use plan and policies, and resource priorities.

The Federal Lands Policy and Management Act (FLPMA) requires cooperative planning and coordination with state and local government land use plans. BLM land management decisions are to be aligned with local land use plans and policies to the maximum extent that is practicable and consistent with federal laws and regulations. SLUPAC appreciates the Proposed Rule states it "would consider whether the proposed project is consistent with relevant State, local, and Tribal government laws, plans, or priorities. The purpose of this determination is not to enforce these State, local, or Tribal plans but rather to ensure consistency and identify projects that are more likely to be successfully approved." SLUPAC reinforces the importance of close coordination with local governments and promoting consistency with local land use master plans. Better coordination and alignment of renewable energy development in areas that are consistent with local land use plans will help avoid these land use conflicts, save staff resources, and better achieve both BLM's goals and those of local governments.

Therefore, SLUPAC suggests the BLM clarify and define how the Proposed Rule and actions flowing from it will be coordinated and align with local land use plans and policies. As indicated in the Proposed Rule, SLUPAC recommends that the BLM enter into agreements with State, Local and Tribal Governments as needed to better plan and prioritize renewable energy development in areas that are smart-from-the-start and consistent with local land use plans. Additionally, SLUPAC would like the Proposed Rule to clarify how the BLM will address any inconsistencies with local plans and policies that may arise from new renewable energy development promoted by the Proposed Rule.

### **Proposed Reducing of Public Meetings and Input**

Section 2804.25 of the Proposed Rule would remove the requirement of a public meeting to be held prior to submitting an application to the BLM and make pre-application public meetings discretionary on the part of BLM staff. According to the Proposed Rule,

“The BLM's experience, since its last rulemaking for solar and wind energy in 2016, demonstrates that this unique procedural step is redundant and not necessary to ensure adequate public participation and coordination with Tribal, and local governments. Participation and interest in these pre-processing meetings are not as strong as it was when solar and wind energy development was a relatively unfamiliar use of public lands, and these meetings are often confused with public meetings that are held later during the environmental review process. Removing this provision would reduce costs, shorten processing times, and remove redundant or unnecessary process requirements for these proposals.”

SLUPAC disagrees with the BLM's assessment of these pre-application public meetings for renewable energy projects and strongly believes that public involvement in the issuance of rights of way should not ever be considered “redundant and not necessary”. SLUPAC finds that these meetings are in fact necessary, and an important tool to promote public participation in the planning process and help mitigate land use planning conflicts between local communities and renewable energy projects in Nevada. Although there are many opportunities for the public to become involved during the environmental review of a project, many public meetings are already subject to BLM discretion and overall, the opportunity for public participation can be confusing to local stakeholders. Additionally, recent changes to the National Environmental Policy Act (NEPA) have made significant changes to reduce the timelines for processing projects and have limited input from the public in the process. The BLM should not further limit public involvement and instead bolster opportunities for State, Tribal, Local governments and the general public to be involved.

### **Need to Combat Current Speculative Leasing Practices**

SLUPAC also encourages the BLM to develop policies that will discourage speculative projects on public land. In recent years across several hundred thousand acres throughout Nevada there has been a rush by developers, private investors, and others to propose large scale renewable energy projects that are speculative in nature. Many of these have very little chance of ever being completed and take up the valuable time of BLM field office, State, Tribal, and County staff. Better vetting, tracking and mapping of the projects proposed on public lands are needed to help the BLM and local stakeholders better understand and plan for more realistic projects across Nevada. Given the impact of these speculative projects on the demands of BLM field office staff, SLUPAC is concerned the incentives in the

Proposed Rule will lead to more speculative energy projects and create unnecessary conflicts with other important land management activities. Therefore, SLUPAC again supports a comprehensive RMP update to balance resource needs and to limit speculation on Nevada's public lands.

Further, SLUPAC requests provisions to require projects that are permitted actually move forward through construction and operation with reasonable diligence. We believe that projects that get through the permitting process should not sit stagnant and there must be "sunset" measures in place to ensure the land is not "tied up" indefinitely. We also request processes be put in place to reevaluate stalled projects to ensure prior environmental and land use analyses and permit terms and conditions are up-to-date and reflective of current circumstances.

Additionally, the BLM estimates the Proposed Rule will reduce payments to the Federal Government from renewable energy developments by \$414 million over the ten-year period from 2023-2032. SLUPAC is concerned about the fiscal impacts to the local District and Field Offices from the loss of this revenue. Throughout Nevada, BLM offices are already understaffed and lack fiscal resources to support their resource management mandates, adequately plan for resource needs, and process applications for multiple uses of public land. SLUPAC does not want to see the anticipated fiscal impacts of the Proposed Rule further reduce the staffing and resource needs of the BLM in Nevada.

### **Conclusion**

SLUPAC looks forward to continuing to work with the BLM to meet the renewable energy needs of Nevada and the Nation in a responsible manner that is consistent with local land use plans and goals. We appreciate the opportunity to provide these comments on the Proposed Rule and thank the BLM for its consideration of our concerns while upholding its multiple use and sustained yield mandates of recreation, range, timber, mineral, watershed, wildlife and fish, science and historical values on Nevada's public lands. If you have any questions or would like additional information concerning SLUPAC or this letter, please feel free to contact Scott Carey, State Lands Planner at 775-684-2723 or [scarey@lands.nv.gov](mailto:scarey@lands.nv.gov).

Sincerely,



Jake Tibbitts, Chair  
State Land Use Planning Advisory Council

CC:

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Senator Catherine Cortez Masto

Senator Jacky Rosen

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Congressman Mark Amodei

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Senate Committee on Energy & Natural Resources

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