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## ***Lead NEPA Story:*** Bureau of Land Management advances massive renewable transmission line

(*Greenwire*, 5/25/2023), Scott Streater, E&E News Reporter

The Bureau of Land Management advanced Thursday a massive power line project stretching across the length of Nevada that is a critical component of the Biden administration's ongoing efforts to expand renewable energy development on federal lands.

BLM announced that it has completed a draft environmental impact statement (EIS) for the 470-mile-long Greenlink West transmission line along Nevada's western boundary, from Las Vegas north to Reno, which would carry as much as 4,000 megawatts of mostly renewable electricity from dozens of proposed solar projects in the state.

BLM last spring began the EIS analyzing the proposal by NV Energy that has already sparked a flurry of solar project applications along its path. The Greenlink West project is a priority for the Biden administration as it works to expand the power grid to support green energy projects often located in remote areas.

At the same time Thursday, BLM also announced it will begin evaluating a related NV Energy-proposed transmission line project — Greenlink North, which would cover 232 miles and is needed to handle anticipated growth on Nevada's north side.

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## ***Clean Water Act:*** Supreme Court erases protections for most wetlands

(*Greenwire*, 5/25/2023) E.A. Crunden, Pamela King, and Ariel Wittenberg, E&E News Reporters

The Supreme Court's Thursday ruling in a Clean Water Act case involving an Idaho couple's property erases protections for the majority of the nation's wetlands, while also throwing the Biden administration's signature water policy into limbo.

The 5-4 decision in *Sackett v. EPA* — written by Justice Samuel Alito, heavily quoting the late Justice Antonin Scalia — finds that wetlands are only protected by the Clean Water Act if they have a continuous surface connection with a larger body of water that makes it “difficult to determine where the ‘water’ ends and the ‘wetland’ begins.”

That interpretation provides an even more narrow reading of Clean Water Act jurisdiction than the Trump administration proposed in its 2020 Navigable Waters Protection Rule. That

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regulation only protected wetlands as waters of the United States, or WOTUS, if they had “relatively permanent” surface water connections with other nearby waterways and included protections for wetlands that were cut off from nearby waterways by human-made structures like roads or berms.

At the time, the Trump administration predicted that some 51 percent of the nation’s wetlands would lose protections under its regulation. The Supreme Court’s ruling would likely exclude even more wetlands from federal reach.

The case centered on the property of Michael and Chantell Sackett, two Idaho landowners who have argued for years that their land near Priest Lake does not contain a federally protected body of water. But EPA has disagreed, asserting that the property is adjacent to the lake some 300 feet away, which makes it subject to federal jurisdiction.

The Supreme Court on Thursday ruled unanimously in favor of the Idaho couple, finding that wetlands on their property are not subject to federal permitting. But the justices offered different reasons for coming to that conclusion.

Alito — joined by Chief Justice John Roberts and Justices Clarence Thomas, Neil Gorsuch and Amy Coney Barrett — wrote that the Sacketts’ property was not covered because it is cut off from Priest Lake by a roadway.

That ruling strips back a protection dating back to wetlands regulations written in 1986 during the Reagan administration.

“For more than a half century, the agencies responsible for enforcing the [Clean Water] Act have wrestled with the problem and adopted varying interpretations,” Alito wrote. “On three

prior occasions, this Court has tried to clarify the meaning of ‘the waters of the United States.’ But the problem persists.”

**In the weeds**

In order to "make sense" of Congress' initial intentions under the Clean Water Act, Alito wrote, the Sackett decision moves to dramatically narrow EPA's authorities.

Justice Elena Kagan led the court’s three-member liberal wing in a concurring opinion, writing that although they agree the Sacketts do not need federal permits, Alito’s majority decision strayed too far from the text of the Clean Water Act, which says the law covers “adjacent” wetlands that don’t necessarily touch navigable waters.

Kagan and the other liberal justices also joined a concurring opinion penned by Justice Brett Kavanaugh — a member of the conservative wing — that said Alito’s majority ruling is too restrictive in limiting the law’s reach to “adjoining” wetlands.

“By narrowing the Act’s coverage of wetlands to only adjoining wetlands, the Court’s new test will leave some long-regulated adjacent wetlands no longer covered by the Clean Water Act, with significant repercussions for water quality and flood control throughout the United States,” Kavanaugh wrote.

Among the most immediate ramifications stemming from the majority’s decision concerns its implications for the Biden administration's most prominent water policy. EPA and the Army Corps of Engineers finalized the new WOTUS definition at the end of last year, formalizing parameters around which of the nation's wetlands and waterways merit federal protection.

The Biden WOTUS rule has been framed as a compromise of sorts, paring back the sweeping and ambitious definition offered by the Obama administration in 2015. It also expands significantly from the Trump-era WOTUS regulation, which was struck down by a federal judge in Arizona in 2021 and featured a very narrow and controversial approach to the definition.

By contrast, the Biden WOTUS rule largely returned to a definition in place since the Reagan administration while accounting for court-imposed jurisdictional limitations in the intervening years. That status quo revival nonetheless launched a torrent of lawsuits from GOP-led states and industry groups clamoring for a pause on the law until the Supreme Court reached its decision in *Sackett*.

Some federal courts followed through, putting the regulation on hold in more than half of the United States. Those states not operating under the Biden WOTUS rule have been subject to regulations dating back several administrations, the status quo when that newer rule is not in place.

Now, the entire country might be thrown into limbo, as the Biden administration will likely be forced to revise its rule and account for the outcome of *Sackett*.

Even the regulations from 1986 likely "cannot be enforced" in full as interpreted by guidance that came out following litigation, said Larry Liebesman, a senior adviser at the firm Dawson & Associates.

"Even that rule, the way I see it, had adjacent wetlands in it," said Liebesman, whose firm focuses on permitting issues. "I don't see how that interpretation can even survive."

EPA Administrator Michael Regan issued a statement after the ruling's release, expressing disappointment in the Supreme Court's conclusions and vowing to continue to pursue a "common sense and science-based definition" of jurisdictional waters.

"As a public health agency, EPA is committed to ensuring that all people, regardless of race, the money in their pocket, or community they live in, have access to clean, safe water," Regan said. "We will never waver from that responsibility."

### **'Significant nexus' test meets its demise**

A key war at the heart of *Sackett* centered on a prior Supreme Court decision over WOTUS, one that birthed an infamously muddled and opaque ruling.

In the 2006 case *Rapanos v. United States*, judges ruled along 4-1-4 lines and created two competing tests that have since been applied to determine whether a body of water meets WOTUS criteria.

One came from Scalia, who offered a very narrow definition stating that a surface water connection was required in order to meet the classification.

But then-Justice Anthony Kennedy offered a broader approach, one that has been widely adopted by federal courts.

In order to constitute a "navigable water," Kennedy wrote, the area must possess a "significant nexus" to waters that are either navigable or "could reasonably be made so." Adjacent wetlands could meet the threshold if they "either alone or in combination with similarly situated lands in the region, significantly affect the chemical, physical, and biological integrity of other covered waters more readily understood as 'navigable.'"

The Biden administration similarly relied on that approach in its WOTUS rule.

*Sackett* revisited issues with the significant nexus test, with the Idaho landowners arguing in favor of Scalia's definition. During oral arguments last fall, several justices seemed unconvinced by their appeals but did inquire whether EPA and the Army Corps could offer a new test, one that would more clearly define relevant waters.

With the decision released Thursday, the court leaned heavily into Scalia's definition, dealing an enormous blow to proponents of the Kennedy test. The Trump-era WOTUS rule already embraced the Scalia approach, but the *Sackett* ruling from Alito goes even further. The new approach would no longer shield wetlands separated from waterways by structures created by people, as is the case with the Sacketts' property.

Liebesman said he was still examining the decision to get a sense of whether it might exceed the Trump-era rule in rolling back protections. But he noted the shift from Scalia's opinion to the one offered by Alito.

"One could read this to say that even those wetlands wouldn't be regulated," Liebesman said.

### **Elation and dismay**

Advocacy organizations that have staunchly defended the Biden administration's WOTUS expressed immediate dismay following the *Sackett* ruling.

Earthjustice, an environmental legal group, called the outcome "a catastrophic loss for water protections across the country and a win for big polluters" that would imperil the nation's wetlands. Sam Sankar, Earthjustice's senior vice president for programs, said that the decision "undoes a half-century of progress generated by the Clean Water Act" and that almost a million acres of formerly protected wetlands are now "deeply threatened."

Courtney Briggs, chair of the Waters Advocacy Coalition, which represents small businesses,

farmers and other industry members, called the move "historic" and "a victory for private property owners across the country."

"The ruling preserves protections for our nation's valuable water resources while delivering much-needed clarity to the process of determining federal jurisdiction over wetlands," she added.

Pacific Legal Foundation senior attorney Damien Schiff, who represents the Sacketts, said the Supreme Court's ruling "returns the scope of the Clean Water Act to its original and proper limits."

He added: "Courts now have a clear measuring stick for fairness and consistency by federal regulators. Today's ruling is a profound win for property rights and the constitutional separation of powers."

**Editor's Note:** The *Sackett v. EPA* decision may be viewed at

[https://www.supremecourt.gov/opinions/22pdf/21-454\\_4g15.pdf](https://www.supremecourt.gov/opinions/22pdf/21-454_4g15.pdf).

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## **Noise Control Act: EPA under pressure to revive noise pollution program**

(*Greenwire*, 5/23/2023) Sean Reilly, E&E News reporter

More than 40 years have passed since EPA's noise regulation program was silenced by a Reagan-era rollback.

It's time to start again, in the view of an advocacy group that accuses the agency of turning its back on a major peril.

In a slowly escalating campaign that includes meetings with top EPA appointees and a recent lawsuit threat, Massachusetts-based Quiet Communities Inc. aims to revive what was once a bedrock function of the Office of Air and Radiation. Should the group prevail, it would mark a rare, if not unprecedented, achievement in pushing the agency back into a previously abandoned regulatory sphere.

"The science shows the health of more than 100 million Americans is at risk from exposure to excessive noise — for hearing damage, cardiovascular disease, psychological disorders, and other serious adverse health impacts," the group wrote in a March letter officially notifying EPA of its plans to sue.

The problem is only getting worse, the letter suggests, and highlights research indicating that people of color and low-income neighborhoods are disproportionately vulnerable. With ear-pounding sources that range from gasoline-powered leaf blowers to crypto mining, the group adds, "individuals and communities continue to suffer from the noise of nationally

sold products that Congress otherwise intended be controlled on a uniform, nationwide basis."

There's no sign, however, that EPA is eager to regain a responsibility that could require millions of dollars in new spending and open a fresh line of attack for critics alleging federal overreach.

Under then-Administrator Scott Pruitt, the agency never replied to a 2017 petition seeking resumed enforcement of the 1972 Noise Control Act, according to Quiet Communities. During the Biden administration, the group has met with top air office staffers, including acting chief Joseph Goffman — thus far, to no avail.

"While Mr. Goffman expressed sympathy with our concerns, he made no commitments to reinstating the noise control program," the letter says.

According to an EPA website, the agency is usually the first line of contact for questions regarding noise pollution. But it adds that "roles have shifted," with state and local governments now often responsible for responding.

Asked for more information on EPA's current work in that arena, a spokesperson this month pointed to the possibility of litigation in declining to comment.

Because the mandatory 60-day window for advance notice of an upcoming lawsuit expired last week, Quiet Communities is now free to bring litigation at any time. In an email, Sanne Knudsen, a University of Washington law professor representing the group, said that EPA never replied to its March letter. Without specifying a date, Knudsen indicated that a suit is in the works over the agency's "total failure to carry out the commands of the Noise Control Act for forty years."

By a traditional definition used by EPA, noise is an "unwanted or disturbing sound." Congress' attempt to confront the cacophony of everyday life was part of the landmark wave of environmental legislation that crested in the early 1970s and also gave life to the Clean Air Act and Clean Water Act. Under the Noise Control Act, lawmakers concluded that "inadequately controlled noise presents a

growing danger to the health and welfare of the Nation's population, particularly in urban areas."

With some exceptions, the law put EPA at the regulatory forefront, with authority to set standards for construction equipment and other major sources.

Among the sectors eventually covered by new limits were aircraft, motorcycles and rail switching yards, recalled David Hawkins, who headed what was then EPA's Office of Air, Noise and Radiation from 1977 to 1981. But motorcycle enthusiasts "were freaked out," said Hawkins, now a senior attorney with the Natural Resources Defense Council. He added that setting aircraft standards was difficult because it meant consulting with the Federal Aviation Administration, which had the lead, and the FAA "typically took" industry's side.

### **A bureaucracy gone berserk?**

The noise office was relatively small, with a \$12 million budget and about 100 employees at one point, according to Quiet Communities. A 1979 report stressed the importance of working with state and local officials; the office's other tasks included noise effects research and creation of a volunteer noise counselor program to help resolve community-level complaints.

But the program lacked "strong political allies," law professor Sidney Shapiro later wrote in a retrospective study that fingered a bid to dampen garbage truck noise as a key factor in its demise. The rule required trucks to run their engines more slowly when they compacted trash, with almost 20 million city dwellers and suburbanites expected to benefit from the reduced din.

Besides garbage haulers, local noise administrators and White House staff were opposed, according to Shapiro's study. James Kilpatrick, a conservative newspaper columnist of the day, slammed the regulations as "one more instance of a bureaucracy gone berserk." Amid the public hubbub, Shapiro wrote, the noise office was discredited.

in 1980, Ronald Reagan was elected president, taking office early the next year with an inaugural declaration that "government is the problem." Soon after, Chuck Elkins, the noise office's director, was told that the White House

had decided to end funding. Congress acquiesced. Noise office employees dispersed to other jobs. The garbage truck standards were eventually scrapped.

But the Noise Control Act remained on the books.

"EPA is caught in this bind that they were still legally required to carry out the act, but they haven't had anybody working on it in such a long time," Shapiro, now on the law faculty at Wake Forest University, said in an interview this week. "This is so unusual."

Both Shapiro and Elkins are now advising Quiet Communities in its efforts to revive the noise control program. In an email late last week, Elkins, now retired from EPA, said he was traveling on vacation and not in a position to speak. In a letter last year, however, he and other advocates urged Goffman to pump some \$18 million into EPA's fiscal 2024 budget request for the proposed restart, with the money to be spent on updates to key technical documents, enforcement of existing regulations and support for community noise reduction efforts.

The letter's signers also included Shapiro; Joel Mintz, a former EPA attorney; and, Jamie Banks, the president of Quiet Communities, whose website describes its purpose as helping

"to find solutions to problems of harmful noise and pollution affecting communities."

A cut of just 5 decibels in environmental noise levels could save almost \$4 billion annually by reducing the prevalence of hypertension and heart disease, they wrote. A noise office revival would also deliver "environmental justice benefits."

Their letter was made public by Protect the Public's Trust, a conservative watchdog group, which obtained it through an open records act request. The correspondence does not reflect an EPA response, but the Biden administration's \$12 billion fiscal 2024 budget request for EPA, released in March, contains no money for noise control.

Among those now rooting for a turnaround is Hawkins, who predicted that noise regulations would bring spillover effects. Setting standards for gasoline-powered leaf blowers and lawn mowers, for example, would probably hasten the shift to electric models, "which would be good for the climate, as well," he said.

"I think it's a great initiative, and I hope they succeed."

*Reporter Kevin Bogardus contributed.*

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## **NEPA:** Power line key for wind energy expansion OK'd

(*Greenwire*, 5/18/2023) Scott Streater, E&E News reporter

A multistate power line project that's been in the works for nearly two decades cleared its final hurdle this week, potentially opening the door for expanded wind power development in New Mexico and Arizona.

The Interior Department's record of decision approving the 520-mile-long SunZia Southwest Transmission Project represents a milestone in the federal government's efforts to expand transmission capacity, particularly in the West where the Biden administration is pushing commercial-scale renewable energy development.

The 500-kilovolt power line will stretch from central New Mexico to a point just southeast of Phoenix. It was originally approved by the Bureau of Land Management in 2015 but later revised for various reasons and is designed to carry as much as 4,500 megawatts of wind-generated electricity produced in both states to major power centers in Arizona and California.

The line — a project of San Francisco-based Pattern Energy — would also connect to the company's planned SunZia Wind project in New Mexico, which is expected to have the capacity to produce 3,000 MW of electricity, or enough to power roughly a million homes.

"SunZia will have a massive economic impact in New Mexico," New Mexico Sen. Martin Heinrich (D) said in a statement. "This project will put our state on the map as the place to build large-scale renewable generation projects and transmission infrastructure."

Laura Daniel-Davis, Interior's principal deputy assistant secretary for land and minerals management, signed the record of decision this week, according to a notice in Thursday's *Federal Register*.

The notice of the record of decision, set to be published in Friday's *Federal Register*, was needed after Pattern Energy in 2020 proposed amending four segments of the line outside the originally approved 400-foot-wide, right-of-way authorization to avoid conflicts with private landowners and because of changes in topography that would not support a high-tower transmission line or the construction of access roads "due to steep or rugged terrain."

Pattern Energy purchased the power line project last summer from SouthWestern Power Group, which first proposed the project in 2006.

"We are thrilled to have achieved this major permitting milestone towards bringing clean renewable energy to the Southwest," said Hunter Armistead, Pattern Energy's CEO, in an emailed statement.

It was slowed down over the years because of concerns over potential impacts to military operations in New Mexico and to sections of the San Pedro River Valley in southern Arizona.

BLM approved the SunZia Southwest project in 2015 after project backers agreed to bury a 5-mile section of the line that crossed the Army's White Sands Missile Range.

The altered route avoids the missile range's "Northern Call Up Area," which is used in weapons testing and training exercises. The Department of Defense had complained that the segment could interfere with the missile range's core mission.

BLM in February released a final environmental impact statement for the reconfigured alignment, which runs the line north of the testing range and instead has it running parallel to an already

approved corridor for the 345-kilovolt Western Spirit Transmission Line.

But it would cross a small section of the Sevilleta National Wildlife Refuge.

Altering the power line's route required BLM to amend the Socorro resource management plan in New Mexico, necessitating a new analysis.

The Biden administration has made expanding the nation's power grid a top priority in an effort to, among other things, accommodate renewable energy development on federal lands across the West. An expanded power grid is needed because much of the development is occurring in remote locations, miles away from power lines that can transport the clean energy to major load centers.

The process has been slow. The Obama administration in 2011 formed the Rapid Response Team for Transmission to prioritize permitting for seven major transmission line projects, only two of which have been completed in more than a decade.

Heinrich said in his statement that the pace of transmission line permitting "must move more quickly," and that he's working on a "transmission permitting reform" bill that he plans to introduce soon.

Meanwhile, BLM is expected this month to issue a draft EIS for the proposed Greenlink West transmission line in Nevada, which would stretch about 470 miles across seven counties, from Las Vegas north to Reno, and would carry thousands of megawatts of electricity from proposed solar power projects across the state.

The project has raised concerns about a 1.5-mile-long section of the line proposed by NV Energy that would cross the Tule Springs Fossil Beds National Monument, delaying the review.

BLM in May 2022 also began an EIS for the 500-kV Cross-Tie Transmission Line, which would cover 214 miles of BLM, Forest Service, state and private lands between central Utah and east-central Nevada.

As for SunZia Southwest, Pattern Energy has said it plans to begin construction on the power line later this year.

The company expects to place the power line in operation by 2025 and to complete its SunZia Wind project the same year.

Since President Joe Biden took office in 2021, BLM has approved 35 renewable energy projects — 10 solar and eight geothermal power projects, along with 17 gen-tie lines that energy projects to the power grid, Interior said.

These 35 projects cover 23,396 acres of BLM-managed lands and, once all are built and placed into operation, are expected to produce as much as 8,160 MW of electricity — enough to power more than 2.6 million homes, according to Interior.

BLM said it is currently processing 74 utility-scale onshore solar, wind and geothermal power

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projects and interconnected gen-tie lines across the West that would have the combined capacity to produce or transport 37,000 MW of renewable energy to the grid.

"The Department of the Interior is committed to expanding clean energy development to address climate change, enhance America's energy security and provide for good-paying union jobs," Daniel-Davis said in a statement.

**Editor's note:** The Record of Decision and Approved Resource Management Plan Amendment for the SunZia Southwest Transmission Project, New Mexico and Arizona, may be viewed at

<https://eplanning.blm.gov/eplanning-ui/project/2011785/570>.

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## NEPA: Interior advances New Jersey offshore wind farms

(*Greenwire*, 5/15/2023) Heather Richards, E&E News reporter

The Biden administration advanced a pair of offshore wind farms Monday proposed off the south Jersey Shore, where wind opponents have tried to connect recent whale deaths with the emerging industry.

The Bureau of Ocean Energy Management, a federal department that oversees energy projects off the nation's coasts, released a draft environmental review of Atlantic Shores South Wind, edging the 200-turbine proposal closer to final approval.

Greenlighting wind projects like Atlantic Shores is a critical part of the Biden administration's climate and clean energy goals, essential to gradually decarbonizing the nation's electricity grid by displacing fossil fuels with renewables like offshore wind that can deliver enormous amounts of power.

Collectively called Atlantic Shores South Wind, the two proposed wind arrays off the Jersey Shore could power nearly 1 million homes. They represent the eighth commercial offshore wind proposal to reach a draft review stage under the Biden administration, which has a goal to clear 16 offshore wind farms by 2025.

The draft analysis digs deep on the potential impacts of building the wind arrays, such as the noise pollution of building the projects, and their risk to birds and marine life. Called an environmental impact statement, it is the largest permitting hurdle ahead of construction of the large offshore energy projects.

The environmental review notes a potential "major" impact from the projects on the North Atlantic right whale, an endangered species. That's because the number of remaining whales — estimated at fewer than 70 breeding females — is so low even marginal impacts could damage the population.

However, BOEM also explains in the draft that it did not do a detailed review of moving turbines in the southern part of the lease area more than a dozen miles farther from shore to avoid the right whale's annual migration corridor. Though that scenario has been requested by some members of the public, it would make it impossible for the first wind array to meet its electricity target with New Jersey, because the restriction would cut the number of proposed turbines by 85 percent, BOEM noted.



Some wind critics, including political leaders in New Jersey and several libertarian policy think tanks, have blamed recent whale deaths, mostly humpbacks, along the eastern seaboard on pre-construction surveying by offshore wind developers.

But federal and independent scientists have rejected that idea, saying evidence has linked the deaths instead to ship strikes and fishing entanglements.

The draft review will be available for public input and critique for 45 days starting Friday — during which BOEM will hold a series of public and virtual hearings on the proposal — before that feedback is weighed by the bureau for a final approval, conditional approval or rejection of the wind arrays.

BOEM Director Elizabeth Klein said in a statement the agency is committed to robust review and collaboration with environmental groups, fishermen and others.

“By working together, we can build a strong, enduring offshore wind industry that ensures American communities across the nation benefit from good paying jobs and clean, reliable, domestic renewable energy,” she said.

The two potential wind farms are being developed by Atlantic Shores, a partnership of Shell New Energies U.S. LLC and EDF Renewables North America. The developers have already won a power contract agreement with New Jersey to deliver 1,510 megawatts of wind energy, which would be filled with the first of the two proposed wind farms.

At its closest point, the energy lease area where the wind farms would be built is nearly 9 miles from the New Jersey shore. It was first sold to offshore wind developers in 2015, during the Obama administration.

For some time now, beachfront communities and some residents have raised complaints about the wind farms, saying they will obstruct views and interfere with tourism. The focus on whales has emerged in the past few months.

In a recent interview, Bob Stern, leader of the local group Save Long Beach Island, said the whale deaths are unusual and have not been proved to be separate from the wind activity. He advocates for offshore wind to be placed dozens of miles from shore to reduce impacts.

In a recent op-ed on NJ.com, Atlantic Shores CEO Joris Veldhoven called the criticism “misinformation,” noting that thousands of turbines off the coast of Europe and China have been raised without whales dying.

“These sad whale deaths are extremely disturbing, but it is simply inaccurate to point the finger at offshore wind activities when there is no evidence to indicate a correlation ... let alone a causal relationship between regular ocean seabed surveys and whale strandings,” Veldhoven wrote.

**Editor’s Note:** The *Atlantic Shores Offshore Wind South Draft Environmental Impact Statement for Commercial Wind Lease OCS-A 499* may be viewed at <https://www.boem.gov/renewable-energy/state-activities/atlantic-shores-offshore-wind-south-draft-environmental-impact>.

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## *Lead NEPA Story (continued from page 1)*

Laura Daniel-Davis, the Interior Department's principal deputy assistant secretary for land and minerals management, said during a conference call with reporters Thursday that the power lines "represent significant advances in the Biden-

Harris administration's efforts to accelerate transmission build-out."

The Greenlink West power line is the highlight of the two projects, and the draft EIS is a "giant step" forward in efforts to expand the use of all forms of renewable energy and lower

greenhouse gas emissions that are driving a warming climate, said Scott Sklar, director of George Washington University's Solar Institute.

"This Greenlink West transmission line will allow large biomass, geothermal, solar, and wind electric generation in Nevada to be utilized in Nevada and throughout the Western United States," Sklar said.

BLM will formally publish the draft EIS notice of availability in Friday's *Federal Register*, kicking off a 90-day public comment period running through Aug. 24. The bureau plans to hold online and in-person public hearings within the public comment period.

BLM has targeted issuing a record of decision approving the Greenlink West line by early next year.

But the power line has encountered problems with a proposed route that would place the line across 1.5 miles of the Tule Springs Fossil Beds National Monument, which delayed release of the draft review.

The *Federal Register* notice does not provide details about the Tule Springs Fossil Beds route, though it does mention that the National Park Service is a cooperating agency on the EIS due to the section of the power line crossing the national monument that the park service manages.

BLM, working with the park service, has proposed routing the power line 5 feet inside the monument near the road that splits the north and south units of the 22,650-acre monument, which was established by Congress in 2014 to protect the fossils of long-extinct species like the Columbian mammoth and the sabertooth cat.

Conservation groups have raised alarms about the possibility of the power line disturbing fossils, saying the federal government should prioritize preservation along with energy transmission.

Among the critics is Kevin Emmerich, a former NPS official who co-founded Nevada-based Basin and Range Watch. His group is concerned about the cumulative impacts of so many renewable energy projects that have been proposed in southern Nevada.

In Nevada alone, BLM is currently evaluating 36 renewable energy projects, mostly solar. If all were built, they would have the capacity to produce more than 13,000 MW of electricity — enough to power roughly 4 million homes.

Many of the solar project applications have been filed since early 2021 when the Greenlink West transmission line was first proposed.

"The Greenlink lines will build big substations and open up the Pandora's box of green energy sprawl in some of Nevada's most remote outback," Emmerich said.

"Solar and wind developers wish to fill remote regions near Austin and Amargosa Valley with large-scale energy that would hook into new Greenlink substations," he added. "The lines will collectively impact imperiled species such as the desert tortoise and sage grouse, but also be built in the path of rare plants, paleontological resources and valuable archeological resources."

### **Need vs. impact**

Proponents counter that moving on the transmission projects needed to connect renewable energy to the grid should be BLM's priority.

But it's a complicated task. The Tule Springs Fossil Beds is just one of many obstacles surrounding the line, underscoring the challenges for the Biden administration in quickly approving renewable energy projects on public lands.

BLM also has needed to place the power line around Nellis Air Force Base, the Desert National Wildlife Refuge and various Native American tribal sites, among others.

"I want to be clear that the team and I recognize the complexity of siting, permitting, financing and constructing major transmission lines that are hundreds of miles long, often times across multiple states and nearly always across multiple counties," Daniel-Davis said during Thursday's conference call.

She added, "The great team at BLM works hard to access low and least-conflict areas, engage on a government-to-government basis with tribes, [gather] multiple viewpoints from a broad range

of stakeholders, minimize impacts and identify alternatives" when alternatives are needed.

If the Biden administration decides to move forward with the line cutting through the monument, BLM, NPS and NV Energy have developed a detailed mitigation plan that will involve excavating fossils before any holes for the power-line poles are dug, the Interior Department said.

BLM has also finalized a larger mitigation plan for the power line project, according to a notice in Thursday's *Federal Register*.

The plan in the draft EIS includes an "anti-perching/nesting mitigation measure" to reduce the threat of ravens building nests on the high-towers and preying on populations of bi-state sage grouse found only in sections of Nevada and California, as well as the Mohave Desert tortoise.

In addition, approving the Greenlink West power line will require amending the Las Vegas Resource Management Plan to allow for impacts to "Visual Resource Management" classifications in the region caused by the high-tower lines.

But few question the Greenlink West project would help the Biden administration meet the dual goals of promoting commercial-scale renewable energy production and expanding the nation's power grid.

Since President Joe Biden's inauguration in January 2021, BLM has approved 35 renewable energy projects, including 10 solar, eight geothermal, and 17 smaller, gen-tie power lines that connect projects to the power grid. In total, these projects cover 23,396 acres of BLM-managed lands and have a cumulative capacity to produce 8,160 MW of electricity — enough to power more than 2.6 million homes, according to the bureau.

As the Biden administration pushes for a carbon-free energy sector by 2035, it's on pace to exceed an Energy Act of 2020 goal to permit 25,000 MW of onshore renewable energy by 2025, the Interior Department reported to Congress last year.

## **A northern transmission line**

BLM on Thursday also announced it will begin an EIS on the proposed Greenlink North transmission line, a related but smaller project crossing about 1,300 acres of BLM lands and five counties in northern Nevada.

Greenlink North is designed to handle renewable energy transmission, but is also needed to address growing power demands in northern Nevada, according to a notice of intent in Thursday's *Federal Register* to begin the EIS.

"The State of Nevada is facing unprecedented changes in both system growth and resource requirements," according to the notice.

The notice says that the current transmission capacity in northern Nevada can carry a maximum of 1,275 MW of electricity "and all 1,275 MW are being used by current network customers."

What's more, "The power demand in northern Nevada is forecast to increase by more than 700 MW within 10 years. New transmission infrastructure is required to deliver the anticipated electric power demand," according to the notice.

Formal publication in Friday's *Federal Register* of the notice of intent to prepare the EIS will kick off a 45-day public scoping period running through July 10.

BLM expects to evaluate potential impacts to greater sage grouse habitat, "cultural and historical resources," and as well as impacts to public lands access and vegetation and soils, according to the notice.

BLM plans to move quickly on the project, targeting a final record of decision approving the power line by summer 2024.

**Editor's Note:** The Notice of Availability of the Draft Environmental Impact Statement and Resource Management Plan Amendments for the Greenlink West Project in Clark, Esmeralda, Lyon, Mineral, Nye, Storey, and Washoe Counties, Nevada may viewed at *Federal Register* 88:34180-34182 (May 26, 2023). The Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Greenlink North Project in White Pine, Eureka, Lander, Churchill, and Lyon Counties, Nevada, may be

viewed at *Federal Register* 88:34178-34180  
(May 26, 2023).

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This edition of the National Desk was compiled by Harold Draper. For more information on NAEP, please contact the NAEP office at [office@naep.org](mailto:office@naep.org).

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