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**U.S. DEPARTMENT OF AGRICULTURE**

**Rural Utilities Service**

**DOCKET # RUS-22-Electric-0014**

**Next Era Energy Resources, LLC, Notice of Availability of a Record of Decision**

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of Availability of a Record of Decision.

**SUMMARY:** Notice is hereby given that the Rural Utilities Service (RUS), an agency within the Department of Agriculture (USDA), has issued a Record of Decision (ROD) to meet its responsibilities in accordance with the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA, RUS Environmental Policies and Procedure, and other applicable environmental requirements related to providing financial assistance for Next Era Energy Resources, LLC's (NEER or the Applicant) proposed Skeleton Creek Solar and Battery Storage Project (Project) in Oklahoma. The Administrator of RUS has signed the ROD, which was effective upon signing. This ROD concludes RUS environmental review process in accordance with NEPA and RUS, Environmental Policies and Procedures. The ultimate decision as to loan approval depends on the conclusion of the environmental review process plus financial and engineering analyses. Issuance of the ROD will allow these reviews to proceed. The ROD is not a decision on the NEER's loan application and is not an approval of the expenditure of federal funds.

**DATES:** The Administrator of the Rural Utilities Service signed the Record of Decision on May 16, 2022.

**ADDRESSES:** For further information, or to request copies of the ROD, contact Kristen Bastis, Archeologist, [SkeletonCreekSolarPublicComments@usda.gov](mailto:SkeletonCreekSolarPublicComments@usda.gov). The ROD is also available at RUS website at <https://www.rd.usda.gov/environmentalstudy/skeleton-creek-solar-and-battery-storage-project-garfield-county-oklahoma>.

**FOR FURTHER INFORMATION CONTACT:** For further information, or to request copies of the ROD, contact Kristen Bastis, Archeologist, USDA, Rural Utilities Service, 1400 Independence Ave., S.W., Mail Stop 1570, Washington, DC 20250, by phone at 202-692-4910, or email at [SkeletonCreekSolarPublicComments@usda.gov](mailto:SkeletonCreekSolarPublicComments@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Applicant is a utility company with more than 180 MW of battery energy storage systems in operation across the United States and Canada. Since the Applicant entered into a Power Purchase Agreement (PPA) with Western Farmers Electric Cooperative (WFEC) for a 250-megawatt (MW) solar array and a 200-MW battery storage system, the Project's purpose and need is focused on meeting the PPA. The Project would allow the Applicant to provide the additional solar and battery generation capacity needed by WFEC to achieve this goal within the service territories of their member cooperatives. Specifically, the Project would provide a source of non-dispatchable power via solar panels that increase capacity during moderate to high power requirement periods, whereas battery storage would provide a source of dispatchable power that increases the reliability of generated power to

the grid. The pairing of battery storage with solar panels would further allow WFEC to meet peak demand needs without adding additional fossil fuel consumption to the system and provide safe, adequate, reliable power at the lowest reasonable cost. In addition, the Project would help WFEC and the Southwest Power Pool to continue to comply with Oklahoma legislative declarations to facilitate the delivery of renewable energy.

The Project consists of a 250–MW solar array, and a 200–MW/800–MWh storage facility in Garfield County, Oklahoma. The Project consists of four major components: photovoltaic solar arrays, energy storage facilities, linear facilities, and transmission interconnection facilities (Proposed Action). The energy storage facilities consist of batteries, solar trackers, and solar power inverters. Linear facilities include a network of internal access roads, communication cables or lines, and a distribution power network for construction and operations control systems. The transmission interconnection facilities include a substation/switchyard that interconnects to the existing Oklahoma Gas and Electric Company (OG&E) 345-kV Woodring Substation via a gen-tie line. These components are explained in detail in the Final Environmental Impact Statement (FEIS).

RUS is authorized under the Rural Electrification Act of 1936, as amended (7 USC 901 et seq.) to make loans and loan guarantees to finance the construction of electric distribution, transmission, and generation facilities, including system improvements and replacements required to furnish and improve electric service in rural areas, as well as demand-side management, electricity conservation programs, and on- and off-grid renewable electricity systems. NEER intends to request financial assistance from RUS for the Project. Along with other technical and financial considerations, completing the environmental review process is one of RUS's requirements in processing NEER's application.

RUS is serving as the lead Federal agency, as defined at 40 CFR 1501.7, for preparation of the FEIS. Cooperating agencies for this Project include the United States Army Corps of Engineers (USACE), the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA). The United States Fish and Wildlife Service (USFWS) is a participating agency for this Project. The USACE will review the Applicant's permit application, as required by Section 404 under the Clean Water Act. The USFWS will determine the likelihood of Project effects on listed species, as required under Section 7 of the Endangered Species Act.

RUS prepared a Final Environmental Impact Statement (FEIS) and published a notice of availability in the **Federal Register** on April 7, 2022, 87 FR 20387, to analyze the impacts of its respective Federal actions and the proposed Project in accordance with NEPA, the CEQ's Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508), and RUS Environmental Policies and Procedures (7 CFR part 1970).

RUS determined that its action regarding the proposed Project is an undertaking subject to review under Section 106 of the National Historic Preservation Act and its implementing regulation, "Protection of Historic Properties" (36 CFR part 800) and as part of its broad environmental review process, RUS must take into account the effect of the Project on historic properties. The National Historic Preservation Act (NHPA), Section 106 review is integrated with the NEPA review of cultural and historic resources in the FEIS in accordance with the guiding regulations of each law (40 CFR 1500-1508; 36 CFR 800.8). Thirty-nine tribes were invited to participate in the NHPA, Section 106 review process, attend the public scoping and Draft EIS meetings, and provide relevant information for inclusion in the EIS. Cultural and historic resources surveys within the area of potential effect identified one newly recorded historical archaeological site and 20 aboveground historical resources.

The structure associated with the archaeological site is no longer extant and extensive disturbances from agricultural practices have impacted the vertical and horizontal integrity of the site. The site had no discernable features or diagnostic material that contribute to the research potential of the site. Therefore, RUS determined that the archaeological site is not eligible for the National Register of Historic Places (NRHP). Based on the photographic documentation and available research, one aboveground historic resource is eligible for the NRHP under Criterion C. However, due to the location of aboveground historic resource relative to the Project location (roughly 1 mile east), and the proposed maximum Project height, the Project will not be visible, and RUS determined that the Project would have no adverse effect. The potential still exists that post-review discoveries of archaeological resources could be identified during Project construction, and these would be addressed by RUS in accordance with the NHPA Section 106 regulations for post-review discoveries (36 CFR 800.13).

All substantive public comments associated with the FEIS have been taken into consideration and addressed in the ROD. Based on consideration of the environmental impacts of the Project and comments received throughout the agency and public review process, RUS has determined that the Proposed Action as described above best meets the purpose and need for the Project. RUS finds that the evaluation of reasonable alternatives is consistent with NEPA and RUS Environmental Policies and Procedures. Details regarding RUS regulatory decision and compliance with applicable regulations are included in the ROD.