

Skeleton Creek Solar and Battery Storage Project Record of Decision



MAY 2022

PREPARED FOR

**U.S. Department of Agriculture
Rural Utilities Service**



**SKELETON CREEK SOLAR AND
BATTERY STORAGE PROJECT
RECORD OF DECISION**

Prepared for

**U.S. Department of Agriculture
Rural Utilities Service**
1400 Independence Avenue, Southwest
Washington, DC 20250-1510

May 2022

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Responsible Federal Agency (Lead): U.S. Department of Agriculture, Rural Utilities Service

Cooperating Agencies: Bureau of Indian Affairs, Bureau of Land Management, and U.S. Army Corps of Engineers

Title: Skeleton Creek Solar and Battery Storage Project Record of Decision

Location: Garfield County, Oklahoma

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1 INTRODUCTION

1.1 Background/Project Description

Skeleton Creek Energy Center, LLC (the Applicant), a wholly owned subsidiary of NextEra Energy Resources, LLC, intends to construct the Skeleton Creek Solar and Battery Storage Project (Project), using a loan from the U.S. Department of Agriculture (USDA), Rural Utilities Service (RUS). RUS has determined that a loan for the Project is a federal action and is therefore subject to National Environmental Policy Act (NEPA) review (42 United States Code [USC] 4321 et seq), in accordance with the Council on Environmental Quality's (CEQ) regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations (CFR) 1500–1508) and with RUS regulations (7 CFR 1970).

RUS is the lead federal agency as defined by 40 CFR 1501.7, and cooperating agencies for the Project are the U.S. Army Corps of Engineers (USACE), the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA). As the lead federal agency, and as part of its broad environmental review process, RUS must take into account the effect of the proposal on historic properties in accordance with Section 106 of the National Historic Preservation Act (NHPA) (16 USC 470f) and its implementing regulation "Protection of Historic Properties" (36 CFR 800). Pursuant to 36 CFR 800.2(d)(3), RUS is using its procedures for public involvement under NEPA, in part, to meet its responsibilities to solicit and consider the views of the public during Section 106 review. Accordingly, comments submitted in the environmental impact statement (EIS) process also informed RUS's decision making in Section 106 review.

As proposed, the Project will consist of a 250-megawatt (MW) solar array with photovoltaic (PV) solar panels and a 200-MW lithium-ion battery storage system with a capacity of approximately 800 megawatt-hours (MWh). The project will be located on approximately 2,472 acres of privately owned land in Garfield County, Oklahoma. Energy generated from these components will be transferred by a 1-mile-long 345-kilovolt (kV) generation tie (gen-tie) transmission line to the Oklahoma Gas and Electric (OG&E) 345-kV Woodring Substation for use by the energy buyer, Western Farmers Electric Cooperative (WFEC).

Prior publications for the Project include a notice of intent for the scoping period, a notice of availability (NOA) and publication of the Draft EIS, and an NOA and publication of the Final EIS. Public meetings for the Project included one meeting during the scoping comment period and two meetings during the Draft EIS comment period.

1.2 Project Purpose and Need

Because the Applicant entered into a power purchase agreement (PPA) with WFEC for a 250-MW solar array and a 200-MW battery storage system, the Project's purpose and need is focused on meeting the PPA. The Project will allow the Applicant to provide the additional solar and battery generation capacity needed by WFEC and their member cooperatives to achieve this goal within the service territories of their member cooperatives. Specifically, the Project will provide a source of non-dispatchable power via solar panels that increase capacity during moderate to high power requirement periods, whereas battery storage will provide a source of dispatchable power that increases the reliability of generated power to the grid. The pairing of battery storage with solar panels will further allow WFEC to meet peak demand needs without adding additional fossil fuel consumption to the system.

In addition, the Project will help WFEC and the Southwest Power Pool (SPP) continue to comply with Oklahoma legislative declarations to facilitate the delivery of renewable energy. In 2006, the Oklahoma

Energy Security Act was enacted, which established a goal that 15% of all installed electric generation capacity within the State of Oklahoma be generated from renewable energy sources such as wind, solar, hydropower, hydrogen, geothermal, and biomass by the year 2015. According to the U.S. Energy Information Administration (EIA), by 2015, the goal had been exceeded statewide, and 25.9% of Oklahoma’s installed capacity came from eligible renewable energy resources and demand side management (EIA 2020a). By 2019, approximately one third of Oklahoma’s installed electric generation capacity used renewable resources (EIA 2020b). The 2018 *The State of Oklahoma’s Electric System Planning Report* (Oklahoma Corporation Commission Public Utility Division 2018) also reached the following conclusions about statewide electric generation from 2017 to 2026:

- Generation facilities of the major service providers are generally expected to trend to increasing wind and natural gas fuel generation, reducing the role of coal in the overall power production mix.
- Solar and distributed generation are expected to make gains while still remaining relatively minor contributors to Oklahoma’s overall power supply.
- Access to regional generation resources through SPP integrated marketplace is expected to continue to provide increased flexibility and savings to Oklahoma load-serving utilities and for their Oklahoma customers.

The diversity of WFEC’s current generation reflects these conclusions by relying on a variety of technologies, fuel types, and owned and contract resources, including substantial amounts of wind energy under existing PPAs. In their 2019 *Annual Report*, WFEC announced that solar power generation will represent a greater portion of WFEC’s overall fuel mix in upcoming years (WFEC 2020). WFEC owns or contracts almost 51 MW of solar generation, which comprises 18 MW from five utility-scale solar farms in Oklahoma, 30 MW from two utility-scale sites in New Mexico, and almost 3 MW from 13 community solar locations. Under contract are the 220-MW Tip Top solar facility with commercial operation planned for 2022 and the Applicant’s Project discussed in this record of decision (ROD) planned for 2023 (WFEC 2020). WFEC (2020) stated that these projects will help further diversify its generation portfolio to include 523 MW of solar generation, 957 MW of wind generation, and 268 MW of hydroelectric generation. When completed, WFEC anticipates that more than 40% of the energy it sells to the SPP will be generated with renewables (WFEC 2020).

1.3 Federal and State Permits, Other Approvals, and Statutory Requirements Required to Implement Project Proposal

Table 1.3-1 identifies the permits, other approvals, and statutory requirements that may be required by federal or state agencies for the Project.

Table 1.3-1. Federal and State Permits, Other Approvals, and Statutory Requirements

Agency	Permits or Other Approvals	Statutes and Regulations
Federal Agencies		
RUS	NEPA and other environmental regulatory compliance	Environmental Policies and Procedures (7 CFR 1794) NEPA compliance (42 USC 4321) Executive Order 11988, Floodplain Management Executive Order 11990, Protection of Wetlands Executive Order 13112, Invasive Species Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
U.S. Fish and Wildlife Service	Section 7 consultation to determine the likelihood of effects on listed species Review of biological assessment and biological opinion preparation, if necessary	Section 7 of the Endangered Species Act (16 USC 1531–1544) Bald and Golden Eagle Protection Act (16 USC 668; 50 CFR 22) Migratory Bird Treaty Act of 1918 (16 USC 703–712)
USACE	Nationwide permit or individual permit under Section 401 and Section 404 of the Clean Water Act (CWA)	Section 401 and 404 of the CWA of 1977 (33 USC 1344)
Federal Aviation Administration	Determination of No Hazard to Air Navigation	Safe, Efficient Use, and Preservation of the Navigable Airspace (14 CFR 77)
Natural Resources Conservation Service	Farmland Protection Policy Act compliance	Agriculture and Food Act of 1981 (Public Law 97-98)
U.S. Environmental Protection Agency	National Pollutant Discharge Elimination System	CWA of 1977 (33 USC 1344) Federal Insecticide, Fungicide, and Rodenticide Act Pollution Prevention Act Resource Conservation and Recovery Act Noise Control Act
State Agencies		
Oklahoma Department of Wildlife Conservation	Authorization if impacts to state endangered or threatened species cannot be avoided	Title 29. Game and Fish. Chapter 1. Oklahoma Wildlife Conservation Code.
Oklahoma Department of Transportation	Application to Construct and Operate and Maintain Utility Facilities on Highways Rights-of-Way Access Driveway Permit (may be required) Drainage Permit (may be required) Road Crossing Authorization Oversize Loads or Excessive Weights on Highways	Not applicable
State Historic Preservation Office	National Historic Preservation Act compliance, Section 106 consultation	Public Law 102-575
Oklahoma Department of Environmental Quality	Construction Site Erosion Control and Stormwater Discharge Permit General Utility Crossings Permit Construction Stormwater Permit Authorization	Not applicable

1.3.1 Rural Utilities Service

The Rural Electrification Act of 1936, as amended (7 USC 901 et seq.), authorizes the Secretary of Agriculture to make rural electrification and telecommunication loans, and specifies eligible borrowers, references, purposes, terms and conditions, and security requirements. RUS is authorized 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.

The Applicant is requesting financing assistance from RUS for the Project's 250-MW solar array and 200-MW 800-MWh battery storage system in Garfield County, Oklahoma. RUS's proposed federal action is to decide whether or not to provide financing assistance for the Project.

RUS will review the Applicant's financial and engineering considerations prior to making a final determination as to approving financial assistance for the Project, following the requirements of 7 CFR 1710. RUS agency actions include the following:

- Provide engineering reviews of the purpose and need, engineering feasibility, and cost of the Project.
- Ensure that the Project meets the borrower's requirements and prudent utility practices.
- Evaluate the financial ability of the borrower to repay its potential financial obligations to RUS.
- Ensure that NEPA and other environmental laws and requirements and RUS environmental policies and procedures are satisfied prior to taking a federal action.

1.3.2 U.S. Army Corps of Engineers

The USACE has been involved in interagency coordination as a cooperating agency for the Project. The USACE will need to issue a permit under Section 404 of the Clean Water Act (CWA) for any activities that discharge fill into waters of the United States (WOTUS), including wetlands, to allow the Project to be constructed.

Section 404 of the CWA establishes a permit program for the discharge of dredged or fill material into WOTUS, including wetlands. This permit program is jointly administered by the USACE and the U.S. Environmental Protection Agency (EPA). The immediate regulatory decision regarding which activities fall under Section 404 of the CWA lies with the USACE Tulsa District. If the Applicant cannot avoid jurisdictional waters, the USACE will determine whether a Section 404 permit is required and, if so, which method for obtaining a Section 404 permit applies to the Project: authorization under a nationwide permit (NWP), authorization under a regional general permit, or issuance of an individual permit.

1.3.3 U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service (USFWS) has been involved in interagency coordination as a participating agency for the Project. The USFWS is responsible for ensuring compliance with the Endangered Species Act (ESA), the Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act. RUS, as the lead federal agency for ESA Section 7 consultation, is responsible for initiating consultation (e.g., communication) with the USFWS to determine the likelihood of effects on federally listed species.

RUS has assessed potential Project impacts on federally listed species and critical habitats as part of the EIS and prepared a biological assessment (SWCA 2021a) for informal USFWS Section 7 consultation. The USFWS provided concurrence with the biological assessment and EIS findings on December 23, 2021, for federally threatened and endangered species, and on March 30, 2022, for candidate species.

1.3.4 Bureau of Land Management

The BLM has been involved in interagency coordination as a cooperating agency for the Project. BLM is responsible for managing surface and subsurface public lands under their jurisdiction for commercial, recreational, and conservation uses. For this reason, the agency provides expertise and guidance regarding potential environmental and land use issues related to BLM's land use management goals, objectives, and actions.

1.3.5 Bureau of Indian Affairs

The BIA has been involved in interagency coordination as a cooperating agency for the Project. The BIA is responsible for enhancing the quality of life, promoting economic opportunity, and carrying out the responsibility to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives. For this reason, the agency provides expertise and guidance regarding potential environmental and land use issues related to the BIA's goals and objectives.

2 ALTERNATIVES DEVELOPMENT AND EVALUATION

2.1 Alternatives Eliminated from Detailed Consideration

In accordance with the CEQ implementing regulations for NEPA (40 CFR 1500–1508), RUS evaluated all reasonable alternatives, and for those alternatives eliminated from detailed study, RUS discusses the reasons for their elimination (40 CFR 1502.14(a)) in this section of the ROD.

Per RUS guidance in Rural Development Instruction 1970-O (U.S. Department of Agriculture 2016), a two-stage alternatives development and screening process was conducted for the Project. Stage 1 considered alternative technologies to the Project, whereas Stage 2 considered alternative locations for the Project. Table 2.1-1 provides a summary of evaluated Stage 1 technology alternatives and summarizes the screening findings. Alternatives were dismissed from further consideration if they failed one or more screening metrics.

Stage 2 of the alternative development process considered alternative locations to the Proposed Action, both outside and within the Application Area. The Applicant initially considered the entire service area covered by WFEC member cooperatives; this service area is located primarily in Oklahoma and New Mexico, with some areas extending into parts of Texas and Kansas. However, the Applicant ultimately selected the proposed 12,262-acre Application Area based on previous land acquisition; the Applicant's history of working in Garfield County and adjacent counties; and placement of this area within WFEC's primary service area (Oklahoma) and near existing points of interconnect (POIs), low load congestion, and high solar irradiance. Within the Application Area, RUS determined that only one additional location alternative was reasonably capable of being sited, based on land requirements (1 MW of generation per 6 to 9 acres of land use) to achieve 250 MW of electrical production.

In addition to technology and location alternatives described above, the Applicant and RUS considered several additional Project design alternatives. Table 2.1-2 provides a summary of these considered design alternatives and the rationale for dismissal from further evaluation.

Table 2.1-1. Technology Alternatives Considered and Screening Findings

Alternative	Description	Natural Resource Availability/ Abundance within WFEC Service Area	Technological, Environmental, Operational (including permitting), or Economic constraints	Meets Purpose and Need	Carried Forward for Analysis?
Load management	Planning, implementing, and monitoring activities of electric utilities, which are designed to encourage consumers to modify their level and pattern of electricity usage	Not applicable	No strict load management programs are currently being implemented by WFEC. Therefore, alternatives related to load management and energy conservation and efficiency programs are not feasible at this time.	No	No
Distributed generation	Use of fuel cells, micro-turbines, or internal combustion engines *	Not applicable	Not currently economically viable on a commercial scale as a primary source of meeting demand and could result in additional associated fuel costs or air emissions (RUS 2013). Additionally, economies-of-scale are lost when installing distributed generation as opposed to utility-scale generation (The Brattle Group 2015). Will not provide reliability benefits or congestion relief because typically installed on a piecemeal basis by a variety of owners.	No	No
Re-powering/uprating of existing units	Re-powering and uprating of existing generation units owned or operated by WFEC	Not applicable	There are no known WFEC re-powering or uprating opportunities that could both satisfy the current need and provide a more diverse energy portfolio (RUS 2013).	No	No
Participation in another company's generation project (or joint owned projects)	Participation in another company's generation project, or collaboration with another company in creating a joint owned project	Not applicable	There are no known WFEC or other company projects where participation is an option to meet the purpose and need.	No	No
Non-renewable fuel sources	Use of non-renewable fuel sources such as natural gas, nuclear, or coal	Varies; coal and natural gas are available/abundant. However, Oklahoma does not have any nuclear power plants (EIA 2020b).	Nuclear power and coal are capital intensive and a complex technology that carries significant risks associated with investment, cost, permitting, and political support. Because of the high efficiency and relatively low capital cost, natural gas generation is fully capable of supplying WFEC's energy needs. However, it does not address WFEC's desire to diversify its energy portfolio by using additional renewable energy resources.	No	No

Alternative	Description	Natural Resource Availability/ Abundance within WFEC Service Area	Technological, Environmental, Operational (including permitting), or Economic constraints	Meets Purpose and Need	Carried Forward for Analysis?
Other renewable energy sources	Use of other renewable energy resources such as wind, hydropower, geothermal, or biomass	Wind and biomass are available. Currently, biomass resources provide a small amount of power generation in Oklahoma (EIA 2020b). Suitable locations for new hydroelectric facilities are limited and are not anticipated to be available within WFEC's service area. Geothermal sources have similar location-based restrictions.	WFEC has identified several concerns with biomass (RUS 2013), including the seasonal availability of biomass fuels and risk of interruptions and variability in both quality and quantity. WFEC has historically pursued wind energy as part of its portfolio expansion, and wind energy alternatives will meet their purpose and need for reliable, renewable energy resources. However, the PPA is exclusively for solar and battery storage associated with the Project. Energy demand peaks during the daytime hours and peak solar production are coincident with that demand. Pairing solar with battery storage allows for WFEC to better balance peak demand needs across its service area.	No	No
Other purchased power/PPAs	Other projects evaluated for potential to meet WFEC's needs	Not applicable	WFEC evaluated a variety of projects including 350 MW of wind in Alfalfa, Major, and Garfield Counties, Oklahoma, and 200 MW of wind in Nemaha, Kansas. The Project was selected by WFEC as the best means to meet WFEC's needs. No other PPAs or proposals were carried forward for analysis.	No	No
New transmission capacity	Improvements to existing transmission capacity	Not applicable	Based on current transmission system characteristics (SWCA 2020), transmission capacity is not expected to be a significant constraint to the transfer of available and economical generation capacity.	No	No

* Battery storage is included as part of the Project, so was not evaluated as a separate technology alternative under this category.

Table 2.1-2. Other Design Alternatives Dismissed from Further Evaluation

Alternative	Description and Rational for Dismissal from Further Evaluation
Lower alternative current/direct current (AC/DC) ratio	The Applicant considered a 1.4 AC/DC ratio, which would reduce the land requirements per MW and could reduce the overall Project size and associated environmental impacts. However, the Applicant determined that a reduced AC/DC ratio would not be economically feasible. Therefore, the alternative was not carried forward for analysis.
Different PV technology	PV technology is rapidly improving, and RUS acknowledges the potential for new technology to generate greater energy production that could reduce the solar panel footprint. However, the Applicant intends to use proven, state-of-the-art, commercially available technology. Because other PV technology is relatively new or yet to be introduced at a commercial scale, there are risks for long-term performance reliability. Manufacturing capacity to supply large-scale utility projects has also not been proven to date.
Alternative solar technologies	PV technology is specified in the existing PPA for the Project. Therefore, alternative technologies were not carried forward for detailed analysis.
Site reconfiguration to reduce impacts	<p>The Applicant has sited the Project as proposed under the Proposed Action to avoid or minimize impacts to sensitive resources to the maximum extent practicable. This includes establishment of a minimum 22 foot setback for solar panels from the following features:</p> <ul style="list-style-type: none"> Mapped wetlands Transmission corridors Pipelines Private residences Mapped surface waters 100-year floodplain <p>This setback provides sufficient spacing to preserve riparian vegetation, maintain natural hydrology, and protect existing infrastructure. Therefore, RUS did not evaluate an alternative to expand the setback buffer distance.</p> <p>The Applicant will also use a minimal grading approach. All vegetation will be typically left intact to the greatest extent possible, except where mowing is necessary for panel maintenance and safety. Grading will only occur in the areas where the elevation will need to be changed to accommodate the tracker/racking system tolerances, site drainage, roads, laydown areas, substation and foundations. Therefore, no reduced grading/vegetation alternative was identified for analysis.</p>
Reduced MW alternative	The Applicant has executed a 20-year PPA with WFEC to provide a 250-MW solar array and a 200-MW battery storage system with a capacity of approximately 800 MWh. A reduced MW alternative will not allow the Applicant to meet their PPA, and therefore will not meet the Project's purpose and need.
Alternative battery technologies	Lithium ion technology is specified in the existing PPA for the Project. Therefore, alternative technologies were not carried forward for detailed analysis.
Alternative gen-tie options	The Applicant's gen-tie line provides the shortest route to the interconnection facility based on land availability. All other routes will be longer, resulting in greater impacts or infeasible due to lack of land access.
Alternative interconnection options	The existing PPA and the interconnection request with OG&E specify delivery of the power generated by the Project to the Woodring Substation. There is no flexibility for a different POI.
Reduced prime farmland alternative	RUS evaluated an alternative that will alter the Project design to move Project components to lower value farmlands or reduce the total amount of prime farmlands impacted by the Project within the Application Area. Because of the extent of prime farmlands within the Application Area, no alternative design was identified that could reduce prime farmland impact without causing greater impacts to other sensitive resources (i.e., aquatic feature and floodplains). Therefore, this alternative was not carried forward for analysis.

2.2 Alternatives Evaluated in Detail

2.2.1 *No Action Alternative*

Under the No Action Alternative, the Project would not be constructed, and physical, biological, and human impacts associated with the Project would not occur. This alternative would not increase WFEC's generation capacity to meet electricity demand within the service territories of their member cooperatives. In addition, this alternative would not increase renewable energy generation within WFEC's portfolio that can provide a source of low-cost, emissions-free energy. As a result, the No Action Alternative would not meet the Project's purpose and need, but per CEQ regulations (40 CFR 1502.14), this alternative was carried forward as a baseline for all action alternatives.

2.2.2 *Proposed Action*

Under the Proposed Action, the Project would be constructed, and physical, biological, and human impacts associated with the Project would occur. The Project would consist of a 250-MW solar array plus 200-MW 800-MWh battery storage system that would use PV panels that comply with RUS's Buy American requirement. The Project would provide renewable energy to WFEC through the electrical transmission grid at the OG&E 345-kV Woodring Substation via a 1-mile 345-kV gen-tie transmission line.

The Project would be located entirely on privately owned land in Garfield County, Oklahoma. The Project's Application Area encompasses 12,262 acres (Figure 2.2-1). Table 2.2-1 provides a summary of the estimated Proposed Action footprint by component. These components are explained in detail in Section 2.3.2.1 in the Final EIS (RUS 2022).

The Applicant executed a 20-year PPA with WFEC with an optional 5-year extension. The Project is expected to operate as merchant during the remaining non-contract period (between 5 and 10 years). The Project is expected to achieve a commercial operation date on or around November 30, 2023, and is expected to create approximately 300 temporary construction jobs to construct the Project and up to 10 long-term jobs to operate the facility. The necessary permits, easements, interconnection, site control, and other development agreements are in place or in process. Project construction is expected to commence in 2022. The Project will operate for approximately 30 years from the commercial operation date.

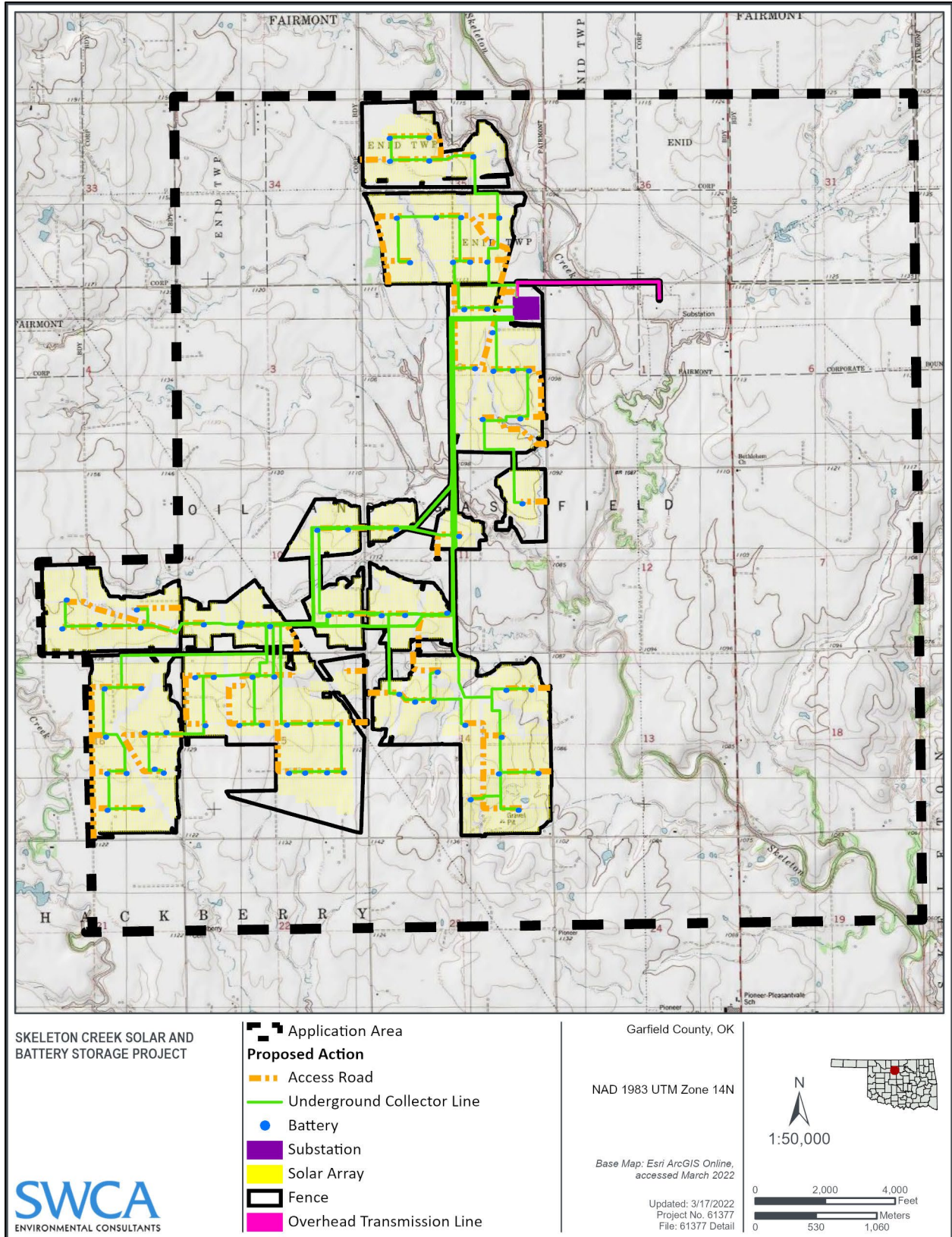


Figure 2.2-1. Location of the application area.

Table 2.2-1. Proposed Action Footprint within Application Area

Project Component	Area (acres)*	Length (miles)
Additional fenced land	1,709	Not applicable (N/A)
Battery storage system	0.7	N/A
Electrical collection system (solar inverters)	0.3	N/A
Electrical collection system (underground collection lines)	51	39.2
Gen-tie line [†]	1	N/A
Long-term access roads	33	16.4
Overhead gen-tie line	11	0.9
Solar array and solar trackers	528	N/A
Substation	12	N/A
Temporary access roads	134	N/A
Total	2,472	N/A

* Rounded to nearest acre. Acreage subject to change based on additional layout refinement. Total is slightly less than sum of individual components due to spatial overlap of some components.

[†] Acreage only provided for foundation installation; all other components would not result in ground disturbance.

2.2.3 Other Action Alternative

During the alternative development process, RUS and the Applicant identified an additional 2,345 acres of buildable land located east of the Proposed Action that could be alternatively developed to support the Project (see Figure 2.2-2). Land acquisition has not yet occurred for this alternative, referred to in the EIS as the Other Action Alternative. However, to achieve 250 MW of energy production, up to an estimated 472 acres of land within this alternative could be allocated to solar panels. The Project would connect to the POI via a 1-mile transmission line. For the purposes of the EIS analysis, the Applicant developed a conceptual layout for other supporting infrastructure, including access roads, collection lines, solar inverters, and battery storage system (Table 2.2-2). However, this layout is subject to change, based on land availability and siting efforts.

Table 2.2-2. Other Action Alternative Footprint

Project Component	Area (acres)*	Length (miles)
Additional fenced land	1,666	Not applicable (N/A)
Battery storage system	0.7	N/A
Electrical collection system (solar inverters)	0.3	N/A
Electrical collection system (underground collection lines)	30	25.8
Gen-tie line [†]	1	N/A
Long-term access roads	28	15.2
Overhead gen-tie line	10	0.9

Project Component	Area (acres)*	Length (miles)
Solar array and solar trackers	472	N/A
Substation	7	N/A
Temporary access roads	132	N/A
Total	2,345	N/A

* Rounded to nearest acre. Acreage subject to change based on additional layout refinement. Total is slightly less than sum of individual components due to spatial overlap of some components.

† Acreage only provided for foundation installation; all other components would not result in ground disturbance.

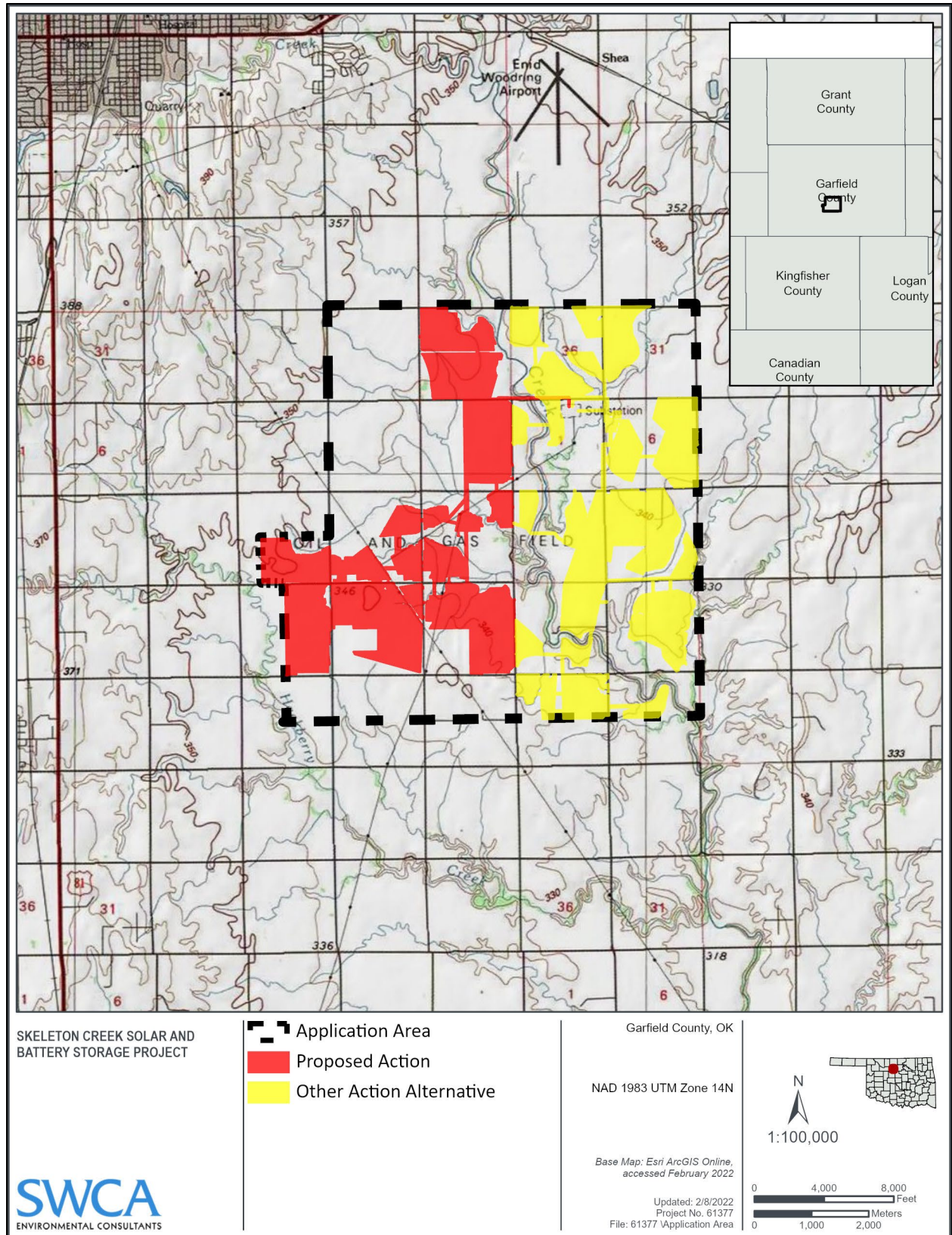


Figure 2.2-2. Proposed Action and Other Action Alternative layout.

2.3 Alternatives Not Selected and RUS's Rationale

The alternatives evaluated in detail that were not selected are described below, along with RUS's rationale for elimination:

- **No Action Alternative:** This alternative would not help increase WFEC's generation capacity to meet electricity demand within the service territories of their member cooperatives. In addition, WFEC would forego opportunities to increase renewable energy generation within its portfolio and offer their member cooperatives a source of low-cost, emissions-free energy. As a result, the No Action Alternative would not meet the Project's purpose and need.
- **Other Action Alternative:** This alternative would result in similar impacts to the Proposed Action, but would occur on lands that have not yet been acquired by the Applicant. Therefore, there is a higher level of uncertainty regarding implementation and potential impacts.

2.4 RUS's Preferred Alternative

The preferred alternative for the Project is the Proposed Action. This alternative was selected based on

- public comments received through the NEPA process;
- applications submitted to federal agencies by the Applicant; and
- information and environmental impact analysis presented in the Final EIS, including the evaluation of all alternatives.

2.5 Environmental Preferable Alternative

The environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in Section 101(B) of NEPA. This means that the environmentally preferable alternative is the "alternative that causes the least damage to the biological and physical environment; it also means that alternative which best protects, preserves, and enhances historic, cultural, and natural resources" (CEQ 1981:Question 6a). To determine the environmentally preferable alternative, RUS considered the results of the environmental analyses presented in Final EIS Chapter 3. Each alternative was evaluated in terms of potential adverse environmental impacts.

Although RUS is required to identify an environmentally preferable alternative in this ROD, the agency is not required to select the environmentally preferable alternative in their decision. For the environmentally preferable alternative, action alternatives were evaluated according to the nature and magnitude of their environmental consequences.

The environmentally preferable alternative for the Project is the Proposed Action. Although the Other Action Alternative has a hypothetically slightly smaller footprint, it would occur on lands that have not yet been acquired by the Applicant. Therefore, there is a higher level of uncertainty regarding implementation and potential impacts. The Proposed Action provides the best balance in minimizing impacts to social, cultural, and natural resources while also being technically and economically feasible to implement.

3 PUBLIC INVOLVEMENT

3.1 Scoping

The notice of intent published in the *Federal Register* on March 15, 2021, initiated the 30-day public scoping period, which ended on April 19, 2021 (83 *Federal Register* 53104). The notice included a brief overview about the Project, potential resource concerns, opportunities to provide input and attend the public meeting, and RUS project contact. Letters, radio and television public service announcements, and newspaper advertisements announcing the Project and the scoping meeting location and time were distributed prior to the public scoping meeting. RUS held one public scoping meeting on March 30, 2021, to present the RUS NEPA process and timelines and to answer questions and receive comments regarding the Project. In all, 11 attendees participated in this meeting based on meeting registration information. RUS received a total of 15 questions from the public during the scoping meeting. Questions asked during the public meeting are not considered formal comments for the public record. However, these questions and answers are provided in a separate question and answer report, which is posted on RUS's [website](#). Zoom Webinar also generated a Microsoft Word version of the meeting transcript. This transcript was converted to a PDF for the administrative record and is also posted on RUS's [website](#).

RUS received three submissions during the scoping period. Submissions were provided by the EPA, the U.S. Geological Survey (USGS), and National Park Service (NPS). The USGS and NPS submissions indicated that the agencies had no comments on the Project. The comments identified within the EPA submission were primarily related to air quality and environmental justice. A summary of the public comments and the federal agency submissions are presented in the scoping summary report (SWCA 2021b).

Because the Section 106 process is being streamlined with NEPA pursuant to 36 CFR 800.8, the public scoping process also provided meaningful opportunity for consulting parties to participate in the Section 106 process. RUS sent letters to federal and state agencies inviting them to participate in the public scoping meeting and provide input on Project-related concerns. Thirty-nine tribes were invited to participate in the NHPA Section 106 review process, attend the public scoping meeting, and provide relevant information for inclusion in the EIS. The full notification list is included in Appendix C of the Final EIS. The Osage Nation Historic Preservation Office requested a separate meeting to discuss the Project, whereas the Choctaw Nation of Oklahoma and the Kaw Nation declined further involvement.

3.2 Draft EIS

The NOA for the Draft EIS was published on October 4, 2021, in the *Federal Register* (86 *Federal Register* 54674), in combination with legal announcements in a local newspaper, to inform the public of the availability of the Draft EIS, dates of public meetings, and start of the 45-day public review and comment period. A notice of correction and extension of the comment period was published in the *Federal Register* (86 *Federal Register* 58654), which extended the comment period to end on December 6, 2021. A printed and electronic copy of the Draft EIS was held at the Enid Public Library for the duration of the review and comment period. An electronic copy of the Draft EIS was also provided on the RUS [website](#). RUS held two virtual public meetings to present the Draft EIS and to receive public comments on November 9 and November 10, 2021. These meetings presented the Draft EIS, summarized its findings, and provided the opportunity to answer questions and address comments. There was a total of five attendees in the first meeting and four attendees for the second meeting. The meeting transcripts for these meetings are available on the RUS [website](#). Five comment letters were received by email during the Draft EIS public review and comment period. Public comments received during the Draft EIS comment period were from the U.S. Department of the Interior, Office of Environmental Policy and Compliance;

the EPA, Region 6; the Osage Nation Historic Preservation Office; the USGS; and a private citizen. Comments requested language edits to reflect changes to the Navigable Waters Protection Rule and Migratory Bird Treaty Act, as well as information on the Osage Nation's participation as a consulting party and in the cultural resource survey scope of work. All public comments, along with RUS response and Draft EIS revisions, are provided in Appendix D (Public Comments and Agency Responses) in the Final EIS.

3.3 Final EIS

The NOA for the Final EIS was published on April 7, 2022, in the *Federal Register* (87 *Federal Register* 20387), in combination with legal announcements in a local newspaper, to inform the public of the availability of the Final EIS and start of the 30-day public review period. The review period closed on May 9, 2022.

Two comment letters were received by email during the Final EIS review period, both from private citizens. These public comments and RUS’s responses are provided in Table 3.3-1.

Table 3.3-1. Final EIS Public Comments and RUS’s Responses

Organization	Commenter Name, Title	Comment	Response
Not applicable	Deib, Josh	I have reviewed the EIS draft currently posted and I feel that there seems to be a disconnect between areas. I looked over the assessments of potential impacts for wildlife species and wetland areas specifically and while your assessment includes all terrestrial wildlife, migratory birds and aquatic wildlife, I think they may lack potential impacts towards the species within the area if short term or long term alterations of their required habitats, especially wetlands, become shifted enough that invasive species are able to take advantage of that shift and continue to shift the ecosystem out of the advantage of native species.	Thank you for your comment. RUS acknowledges that the Project will result in habitat modification and that temporary Project soil disturbance and vegetation removal could allow for invasive species and noxious weeds introduction or spread. However, less than one-quarter of all available habitat will be impacted in the long term, and most (88%) of the affected habitat is currently cultivated crops. As described in Section 3.3.1.3.3 of the Final EIS, conversion of cultivated crops to grassland/herbaceous cover due to mowing and other Project maintenance tasks may provide a benefit to certain wildlife through improved foraging opportunities. The Applicant has also committed to avoiding all jurisdictional wetlands. Additionally, the Applicant will prepare an invasive species and noxious weed management plan. The plan will include a prioritized list of potential invasive and weed species, management goals, restoration success criteria, a weed management schedule, weed removal procedures, approved herbicides, and monitoring requirements. RUS anticipates that plan implementation will avoid or minimize the introduction or spread of invasive species and noxious weeds that could ultimately result in ecosystem shifts.
Not applicable	Watson, Hunter	I wanted to provide public comments about the proposed Skeleton Creek Solar project regarding the wildlife being affected. Specifically, I will be commenting about the bird species affected as I see this project is occurring within range of the Whooping crane, Rufa Red knot, and Piping plover, all of which rely on wetlands to be used as temporary or permanent habitats. It is hopeful to see that the Piping plover and Rufa Red knot are unlikely to occur in the project area, but due to unpredictable	Thank you for your comment. RUS prepared a biological assessment to evaluate Project impacts to threatened and endangered species, which included the whooping crane (<i>Grus americana</i>), piping plover (<i>Charadrius melodus</i>), and rufa red knot (<i>Calidris canutus rufa</i>). The biological assessment determined that the Project may affect, but will not adversely affect, these species. This determination was based on limited habitat suitability and implementation of Applicant-committed measures to reduce impacts. The USFWS provided concurrence with the biological

Organization	Commenter Name, Title	Comment	Response
		<p>weather, I do fear there is a possibility of occurrence at an unprecedented time. The Rufa Red knot is believed to have an average of five individuals in the state of Oklahoma annually and it will be terrible if this number were to drop any lower and eventually be extirpated because of the gradual loss of wetlands due to this project and other projects in the foreseeable future. The Rufa Red knot also happens to migrate through the area from August to September which is the peak monsoon season and the chances of accidental occurrence through the project site could increase dramatically because of this. Another major concern to me is that the Whooping crane occurs in the project area and this species is listed as endangered. I fear this project along with other future projects occurring on the wetlands could negatively affect the population of these species. I think it is beneficial that construction may be halted if an individual Whooping crane is seen in the project area although, this seems like a short-term fix. The endangered species may or may not still occur in the project area after construction has finished and if it doesn't this is just another case of a loss of habitat where these birds initially occurred. I hope that there is some long-term fix you guys have in mind to mitigate the loss of this species in the project area instead of just hoping it occurs elsewhere. Regarding the other species of wildlife that aren't threatened or endangered in the project area, I hope plans were made to avoid a long-term negative impact on the songbirds and wading birds that may use the area that was referred to in the EIS such as warblers, vireos, flycatchers, and sandpipers.</p>	<p>assessment and EIS findings on December 23, 2021. No additional mitigation for avian species was provided by the USFWS during the informal Section 7 consultation process.</p> <p>The Final EIS also contains a list of Applicant-committed measures that will be implemented to avoid or minimize adverse Project impacts to other non-listed avian species, such as avian nest surveys.</p>

3.4 Comments Received

See Sections 3.1 to 3.3 for descriptions provided by public comment period.

3.5 Changes from the Draft EIS to Final EIS

See Section 3.2, Draft EIS.

3.6 Changes from the Final EIS to ROD

Based on RUS's review and response to public and agency comments received during the Final EIS review period (see Section 3.3 of the Final EIS), no further changes are needed for the Project description or associated environmental impact analysis after the issuance of Final EIS.

4 SUMMARY OF ENVIRONMENTAL EFFECTS

4.1 Environmental Effects of the Selected Alternative

Impacts of RUS’s selected alternative are summarized in Table 4.1-1.

Table 4.1-1. Summary of Effects

Resource	Proposed Action (selected alternative)
Air quality	<p>There will be a temporary increase in pollutant and greenhouse gas (GHG) emissions from equipment exhaust during construction, vehicle exhaust caused by travel to and from the Project, and fugitive dust from soil disturbance.</p> <p>A long-term benefit will occur due to reduced air emissions and a reduced risk of health events.</p>
Geology and soils	<p>There will be a short-term displacement of soil and rock or alteration of geologic features during construction. No geologic impacts will occur during operations and maintenance.</p> <p>There will be an increased potential for soil erosion, soil compaction, and loss of soil productivity during construction. Soil impacts associated with operations and maintenance will be limited to continued soil compaction along access roads and in long-term operations areas, and soil disturbance from maintenance tasks.</p>
Water resources	<p>Approximately 834 linear feet of ephemeral streams and three waterbodies will be located within the PV panel footprint, whereas approximately 276 linear feet of ephemeral streams, one waterbody, and 108 linear feet of intermittent stream will be located within the underground collection lines and access roads footprint. However, the Applicant has committed to avoiding impacts to all jurisdictional waters during construction.</p> <p>Up to 5 acres of impacts to floodplains will occur. Groundwater use will be limited and restricted to amounts allowable by the state water agency.</p>
Vegetation, including invasive species, noxious weeds, and special-status plants	<p>Approximately 575 acres of long-term impacts to vegetation and 178 acres of temporary impacts to vegetation will occur. An additional 1,709 acres of vegetation within the additional fenced land will be mowed, resulting in conversion from cultivated crops to grassland/herbaceous land cover.</p> <p>No impacts to special-status plant species will occur.</p> <p>Introduction and growth of invasive and noxious plant species could occur.</p>
Wetlands	<p>Approximately 0.9 acre of wetlands will be impacted short term by Project activities. Clearing and maintenance activities will convert approximately 0.2 acre of Palustrine Scrub-Shrub wetlands to Palustrine Emergent wetlands.</p>
Wildlife, including special-status species	<p>Approximately 2,469 acres of total wildlife habitat will be impacted, of which 575 acres will represent long-term habitat loss and 185 acres will represent short-term habitat loss. The remaining 1,709 acres of habitat will be altered due to mowing activity.</p> <p>RUS made a determination of “no effect” for the Arkansas river shiner (<i>Notropis girardi</i>), and a determination of “may affect, but is not likely to adversely affect,” for whooping crane (<i>Grus americana</i>), piping plover (<i>Charadrius melodus</i>), rufa red knot (<i>Calidris canutus rufa</i>), and monarch butterfly (<i>Danaus plexippus</i>).</p>
Cultural and historic resources	<p>One archaeological site that is not eligible for the National Register of Historic Places (NRHP) was identified in the analysis area. Potential exists for additional archaeological resources to be discovered during construction or tribally significant resources to be identified in RUS’s ongoing tribal consultation efforts. Unanticipated discoveries will be addressed by RUS pursuant to the NHPA Section 106 regulations (36 CFR 800.13) and through implementation of an unanticipated discovery plan. Any tribally significant resources identified in consultation will have potential impacts assessed based on the Criteria for Adverse Effects under the NHPA Section 106 regulations (36 CFR 800.5) and, in the case of adverse effects, have impacts avoided, minimized, or mitigated in consultation with the State Historic Preservation Office (SHPO) and consulting tribes per the NHPA Section 106 regulations.</p> <p>Twenty aboveground historic resources, including one Centennial Farm and Ranch property, occur in the area of potential effects; however, these resources will not be physically impacted, and visual impacts will be minimized through vegetative screening. Only one identified historic resource was determined to be eligible for the NRHP. However, the Project will not be visible from this resource and will therefore have no adverse effect on this resource.</p>

Resource	Proposed Action (selected alternative)
Land use	<p>Approximately 2,285 acres of land cover will be converted to developed use in the long term, and approximately 178 acres will be converted to developed use in the short term. The predominant land cover impacted will be cropland.</p> <p>This alternative is consistent with zoning and land use regulations.</p> <p>There will be negligible impacts to existing infrastructure, long-term impacts to 1,978 acres of prime farmland, and a temporary to long-term loss of land use by landowners.</p>
Noise	<p>There will be a temporary increase in noise levels due to traffic and construction activities.</p> <p>There will be no significant impacts to four noise-sensitive receptors or from long-term noise sources (e.g., gen-tie line or other facilities).</p>
Public health and safety	<p>Solid and hazardous waste will be managed in accordance with applicable regulatory requirements.</p> <p>There will be a long-term risk associated with fire and severe weather; a temporary increase in potential for traffic/worker incidents; and a long-term, negligible increase in potential electromagnetic field (EMF) exposure.</p>
Socioeconomics and environmental justice	<p>There will be a temporary and long-term benefit to employment and economic activity, temporary increase in public service and housing demand, and no disproportionately high and adverse impacts to communities with environmental justice concerns.</p>
Transportation	<p>There will be a temporary and long-term increase in traffic due to vehicle and equipment travel; compliance with all federal, state, and local regulations; and no adverse impacts associated with glint/glare.</p>
Visual quality and aesthetics	<p>In all, 528 acres of agricultural lands will be converted to a solar farm.</p> <p>Views from Key Observation Points (KOPs) 3 and 4 will be most affected because they are directly adjacent to the proposed PV panels and access roads with unobstructed views of construction activities.</p>

4.2 Environmental Commitments and Mitigation Measures

The impact analysis for each resource assumes successful implementation of the environmental commitments that are proposed as part of any action alternative (Table 4.2-1). Table 4.2-1 represents the most current list of environmental commitments to be implemented by the Applicant during the construction and operation of the Project. These environmental commitments are required by this ROD and will be included in, and thereby enforced by, applicable permits, authorizations, and orders issued by federal and state agencies. These commitments may be revised as permits, authorizations, and orders actions are reviewed and issued, if deemed appropriate by the various decisionmakers. It should be noted that additional environmental commitments, mitigation measures, and/or best management practices (BMPs) may be required through other permits issued by state or federal agencies.

Table 4.2-1. Environmental Commitments

Resource/Topic	Environmental Commitment
Topography	When grading is required, the existing terrain will be smoothed to accommodate site design requirements. In this way, significant changes to grades or slopes will mostly be avoided, and existing drainage patterns will be generally maintained.
Air quality	The Applicant will take steps to mitigate impacts to air quality and to reduce noise. First, all vehicles and construction equipment will be maintained to minimize exhaust emissions and will be properly muffled to reduce noise. Additionally, short-term increases in dust emissions during construction activities will be mitigated by the application of BMPs. Disturbed areas will be watered as necessary to suppress dust during construction and operations.
Avian, whooping crane	The Applicant will mark the transmission line with bird flight diverters and establish a plan to lower relevant equipment at night during whooping crane migration; institute a stop-work if the listed species is observed within 1,000 feet of construction activities; and have environmental training for workers, contractors, and visitors during construction.

Traffic	If it is determined during the design process that improvements are needed, the Applicant will prepare a traffic management plan for RUS review before construction starts to minimize traffic impacts and comply with permit requirements.
Wildlife, general	In general, trenches will be opened, equipment will be installed, and trenches will be backfilled over a short duration of time. Speed limits will be enforced along access roads to minimize impacts to wildlife.
Wildlife, monarch butterfly	<p>Applicant-committed BMPs for monarch butterflies are listed below.</p> <ul style="list-style-type: none"> • Appropriate erosion control measures, such as silt fences, silt barriers, or other devices, will be placed between disturbed areas and any nearby waterways and maintained in a functioning capacity until the area or areas are permanently stabilized. • Topsoil will be stockpiled during the grading process and will be re-distributed across the Project. • A low-growing seed mix will be planted beneath the solar panels, which will support stormwater soil stabilization requirements, minimize long-term maintenance requirements, and minimize the growth of invasive vegetation and other plants (e.g., milkweed). Standard mowing practices will be applied in these areas to reduce fast-growing weeds. • A mix of clovers and pollinator plant species that are appropriate for the region will be planted around the Project substation, along select access roads, or around select wetland areas where the vegetation management practices will not interfere with standard Project maintenance. <ul style="list-style-type: none"> ○ To facilitate establishment of pollinator vegetation, mowing will be used as a management practice for up to the first 5 years to reduce fast-growing weeds and assist with the growth of planted species. ○ Herbicide use will occur on-site in a targeted manner to control herbaceous weeds. ○ Once desirable vegetation is established in this area, mowing will incorporate best practices outlined by the Monarch Joint Venture (2022) where feasible once the Project goes into operation. These practices will include measures such as mowing once or twice per year and avoiding mowing when monarchs are projected to be present regionally.
Migratory/nesting birds	The Applicant will complete avian nest surveys in woodland and shrubland habitat prior to construction. If active nests are identified, vegetation buffers will be applied, and biological monitors will be used during construction to minimize impacts.
Invasive species	An invasive species and noxious weed management plan will be developed prior to receiving a notice to proceed from RUS. The plan will include a description of the site, a prioritized list of potential invasive and weed species, management goals, restoration success criteria, a weed management schedule, weed removal procedures, and monitoring requirements. Infestations of nonnative and invasive species will be treated in accordance with the invasive species and noxious weed management plan.
Hazardous materials and waste	<p>All regulations regarding any toxic substances that are used, generated by, or stored at the Application Area will be followed in accordance with the Toxic Substances Control Act of 1976, as amended. Additionally, any release of toxic substances more than the reportable quantities established by 40 CFR 117 will be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980. If required, a spill prevention control and countermeasures plan will be prepared to meet the applicable requirements of 40 CFR 112.</p> <p>The Applicant will develop procedures for the storage, use, transportation, and disposal of hazardous materials prior to introducing the hazardous materials on-site. The procedures will identify all hazardous materials that will be used, stored, or transported on-site and will establish requirements for inspection, storage, inventory control, product substitutions, and disposition of excess materials. The procedures will also identify requirements for notices to emergency response agencies. Potentially hazardous materials used in the operations and maintenance of the Project will be stored in an off-site operations and maintenance facility or in on-site storage area, in approved, aboveground containers with appropriate spill containment features.</p> <p>Construction waste will be recycled wherever possible. Non-recyclable construction waste will be disposed of by a licensed contractor at an approved facility. Compliance with regulations and standard manufacturers' protocols for storage, transportation, and usage of any hazardous construction-related materials will be followed to ensure safety in accordance with Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (29 CFR 1910.1200) and the relevant state laws.</p>

Stormwater management and erosion control	<p>A stormwater pollution prevention plan (SWPPP) incorporating BMPs for erosion control will be prepared before construction. The Project SWPPP will include information regarding existing and proposed drainage, permits and governing documents, potential discharges and sources, protection measures and BMPs, training requirements, storm event planning and preparation, and maintenance and reporting procedures. The SWPPP will outline specific water erosion control measures such as seeding, mulch, blankets, detention basins, certified weed-free straw bales, or silt fences to be implemented to minimize soil erosion and loss of soil productivity.</p> <p>In addition to typical stormwater management BMPs, the Project may include the following: limit the amount of impervious surfaces to reduce runoff, minimize the amount of grading to promote sheet flow, and plant grass on most of the site to provide both runoff reduction and treatment.</p>
Vegetation	<p>A site restoration and revegetation plan will be implemented following construction-related activities. Temporary disturbance areas from construction will be revegetated as practicable (e.g., revegetation/reseeding, regrading, and decompaction). Re-vegetation/re-seeding will be done using approved seed mixes consisting of weed-free grasses and forbs. The seed will be appropriate to the geographic and elevation characteristics of the area to be seeded. The plan will incorporate fire safety requirements for mowed vegetation maintained below PV panels. Maintaining this cover will minimize losses to soil resources and maintain soil health. The site restoration and revegetation plan will be submitted to RUS and relevant agencies for approval prior to the start of Project activities.</p>
Employee training	<p>Construction and operations staff will be trained on all relevant plans, including fugitive dust management plan, traffic management plan, emergency response plan, fire management plan, project grading plan, lighting plan, cultural resources avoidance and minimization measures, unanticipated discoveries plan, and wildlife training.</p>
Cultural and historic resources	<p>Consultation between the Oklahoma State Historic Preservation Office (SHPO), Oklahoma Archeological Survey (OAS), RUS, and consulting tribes/Tribal Historic Preservation Office is required under Section 106 of the NHPA. This consultation must be completed prior to financing or license issuance.</p> <p>Should any previously unrecorded cultural resources be discovered during Project implementation, an unanticipated discovery plan will be followed. Activities that may affect that resource within the area of discovery will halt immediately; the resource will be evaluated by a Secretary of the Interior–qualified archaeologist; and consultation will be initiated with the SHPO, OAS, and consulting tribes/Tribal Historic Preservation Office immediately, as well as with the Advisory Council on Historic Preservation if required, to determine appropriate actions for protecting the resource and for mitigating any adverse effects on the resource. Project activities at the discovery site will not resume until the resource is adequately protected and until determined mitigation measures are implemented with RUS approval and SHPO/Tribal Historic Preservation Office agreement. RUS will recommend a minimum 100-meter buffer for cultural resources and a 100-meter buffer for discovered human remains in accordance with the agreed-upon scope of work between RUS, Osage Nation, the SHPO, and OAS.</p>

5 RUS DECISIONS AND RATIONALE FOR DECISIONS

RUS decisions must comply with all relevant state and federal environmental regulations. The regulations are summarized in Table 1.3-1 in the Final EIS, as well as Section 1.3 of this ROD.

5.1 Decisions

This ROD documents findings specific to the Proposed Action (selected alternative).

RUS has made the following decisions:

- Based on an evaluation of the information and impact analyses presented in the Final EIS, including the evaluation of all alternatives and in consideration of RUS’s environmental policies and procedures (7 CFR 1970), RUS finds that the overall impact analysis and evaluation of reasonable alternatives are consistent with NEPA. In the Final EIS, RUS, in cooperation with the USACE, BLM, and BIA, identifies the proposal as described in the Final EIS with proposed

measures to minimize impacts as its preferred alternative. In this ROD, RUS identifies the Final EIS preferred alternative as its selected alternative. This ROD concludes RUS's environmental review process in accordance with its environmental policies and procedures.

- A review and analysis of the selected alternative's justification, associated engineering studies, and preliminary financial information have led to RUS's concurrence with the selected alternative's purpose and need.

RUS hereby agrees to the above, and should the Applicant apply to RUS for financing assistance for the proposal, the consideration of the Applicant's loan application may proceed. The following conditions apply:

1. The Applicant will implement the selected alternative as described in this ROD, with further details as described for the preferred alternative in the Final EIS. This includes a) those actions incorporated into the selected alternative to reduce or eliminate impacts, and b) any mitigation measures that the Final EIS and this ROD state will be implemented.
2. The Applicant will obtain and comply with all applicable local, state, and federal permits required for the construction and operation of the selected alternative.

5.2 Rationale and Compliance with Legal and Policy Mandates

This section explains how the selected alternative, as defined in the Final EIS and in this ROD, satisfies RUS's statutory, regulatory, and policy mandates.

5.2.1 National Environmental Policy Act

In the Final EIS, RUS has fully considered all reasonable alternatives to the Proposed Action and concluded that the construction and operation of the Proposed Action best meets the purpose and need of the Project. The agency has met the requirements of NEPA and agency policies and procedures for public involvement. This has included responses to requests for information from the public, including non-governmental organizations, federally recognized tribes, and federal and state agencies. The impacts, actions, and mitigation to reduce them are provided in the Final EIS (and summarized in this ROD). The Applicant will be responsible for implementation of these measures with RUS (and any cooperating agencies) oversight.

5.2.2 National Historic Preservation Act and Tribal Government-to-Government Consultation

Consultation with the Tribal historic preservation officers, state historic preservation officers, and other consulting parties is documented in Section 3.4.1 of the Final EIS. The consultation process established procedures related to the proposed surveys and for the determination of National Register of Historic Places (NRHP) eligibility, assessment of effects, resolution of adverse effects, and post-review discoveries through the entire area of potential effects.

The Oklahoma Historical Society provided concurrence on April 19, 2022, with RUS's determination that Resources #1–#7, #9–#21, and #23–#24 are not eligible for the NRHP, as well as RUS's determination that one historic-age aboveground resource at 4618 South 66th Street (Resource #8) is eligible for the NRHP under Criterion C, as a good local example of the vernacular Queen Anne architectural style in rural Oklahoma. However, the Project, as proposed, will have no adverse effect on the historic property.

The Oklahoma Archeological Survey provided concurrence on April 22, 2022, with RUS's determination that the newly recorded historical archaeological site 34GR122 is not eligible for the NRHP, and that the proposed undertaking will result in no adverse effect on the historic properties on the site.

The Osage Nation Historic Preservation Office provided concurrence on April 21, 2022, with RUS's determination that one historic-age aboveground resource at 4618 South 66th Street (Resource #8) is eligible for the NRHP, but that there will be no effect based on the location of Resource #8 in relation to the Project location and the maximum height of the Project. Therefore, for direct effect, the finding of the NHPA Section 106 review is a determination of no adverse effect to historic properties. The Osage Nation Historic Preservation Office also determined that the Project will not adversely affect any sacred properties and/or properties of cultural significance to the Osage Nation.

5.2.3 *Endangered Species Act*

RUS submitted a biological assessment through the USFWS Information for Planning and Consultation tool to USFWS on October 15, 2021. As noted in Section 1.3.3, the USFWS provided concurrence with the biological assessment and EIS findings on December 23, 2021, for federally threatened and endangered species, and on March 30, 2022, for candidate species.

5.2.4 *Executive Order 11988, Floodplain Management*

The Project has been sited to avoid floodplains, as applicable. Therefore, only 4 acres of the 100-year floodplain and less than 1 acre of the 500-year floodplain will be temporarily impacted by construction of underground collection lines and access roads. Implementation of SWPPPs and associated BMPs will minimize impacts.

5.2.5 *Executive Order 11990, Protection of Wetlands*

The Applicant will design and construct the Project in a manner that avoids impacts to jurisdictional wetlands and other WOTUS. If the Applicant's plans change, RUS anticipates that Project impacts will be covered within the thresholds of an NWP.

6 RUS LOAN REVIEW

This ROD is not a decision on the Applicant's loan application and therefore not an approval of the expenditure of federal funds. The ROD concludes the agency's environmental review process in accordance with NEPA and agency policies and procedures (7 CFR 1970). The ultimate decision as to loan approval depends upon the conclusion of the environmental review process as well as financial and engineering analysis. Issuance of the ROD will allow these reviews to proceed, if the Applicant applies to RUS for financing assistance.

7 RIGHT TO ADMINISTRATIVE REVIEW (APPEAL PROCESS)

This ROD concludes the agency's environmental review process pursuant to NEPA and the agency's environmental policies and procedures (7 CFR 1970). There are no provisions to appeal this decision. Legal challenges to the ROD may be filed in federal district court under the Administrative Procedures Act.

8 APPROVAL

This ROD is effective on signature.

CHRISTOPHER MCLEAN Digitally signed by CHRISTOPHER MCLEAN
Date: 2022.05.16 09:12:01 -04'00'

Christopher A. McLean
Acting Administrator
Rural Utilities Service
U.S. Department of Agriculture

Date

9 CONTACT PERSON

For additional information on this ROD or the Final EIS, please contact Kristen Bastis, Archaeologist, U.S. Department of Agriculture, Rural Utilities Service, 1400 Independence Avenue, Southwest, Washington, DC 20250; telephone: (202) 692-4910; or email: Kristen.Bastis@usda.gov.

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