INFORMATION/BRIEFING MEMORANDUM

For the Director, Bureau of Land Management

Date: \_\_\_\_\_\_\_\_\_\_\_

From: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_ State Director

Subject: \_\_\_\_\_\_\_\_\_Solar Project Proposal

Variance Process Concurrence Request

**BACKGROUND:**

The Bureau of Land Management (BLM) \_\_\_\_\_\_\_\_\_ Field Office (Field Office) received a right-of-way (ROW) application from \_\_\_\_\_\_\_\_\_, a wholly owned subsidiary of \_\_\_\_\_\_\_\_\_ an international corporation specializing in the development of photovoltaic (PV) solar projects, for the \_\_\_\_\_\_\_\_\_ Solar Project on \_\_\_\_\_\_\_\_\_\_\_ (casefile number \_\_\_\_\_\_\_\_\_). This application is being considered under the provisions of the 2012 Western Solar Plan and the regulations at 43 CFR 2800. Specifically, the application is subject to the requirements in the Western Solar Plan, including the variance process identified in Appendix B.

The \_\_\_\_\_\_\_\_\_ Solar is estimated to produce up to \_\_\_\_\_\_\_\_\_ megawatts (MW) of electricity via a photovoltaic generating facility and a \_\_\_\_\_\_\_\_\_ MW battery energy storage system. The project is proposed on approximately \_\_\_\_\_\_\_\_\_ acres of BLM-administered land and \_\_\_\_\_\_\_\_\_ acres of \_\_\_\_\_\_\_\_\_ land, for a total project area of \_\_\_\_\_\_\_\_\_ acres. The proposed project is located in \_\_\_\_\_\_\_\_\_ County, \_\_\_\_\_\_\_\_\_, approximately \_\_\_\_\_\_\_\_\_ miles \_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_, between the cities of \_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_. The target date for commercial delivery is \_\_\_\_\_\_\_\_\_.

[Additional project information here – as deemed appropriate for background purposes.]

**DISCUSSION:**

**Variance Review Process.** The Field Office completed three preliminary meetings with \_\_\_\_\_\_\_\_\_, as required in 43 CFR 2804.12(b)(4) and the Western Solar Plan. The Field Office also completed preliminary outreach to interested and potentially affected Tribal Nations.

The first variance meeting, on \_\_\_\_\_\_\_\_\_, was between \_\_\_\_\_\_\_\_\_ and the Field Office. Following the review of the preliminary plan of development the field office concluded that the proposed project is in conformance with the \_\_\_\_\_\_\_\_\_ Resource Management Plan (RMP) and has a low potential for impacts to sensitive resources, management objectives, and other land uses in and around the proposed vicinity.

The second variance meeting, on \_\_\_\_\_\_\_\_\_, was a virtual meeting (via Zoom) between BLM and Federal, State, and local agencies that typically coordinate and consult on major ROW projects. \_\_\_\_\_\_\_\_\_ presented the project proposal and fielded questions and discussion points. Agency representatives did not identify any additional critical resources that were not already identified in the Variance Factors Analysis Report and focused their questions on the variance process and future cooperation and consultation opportunities. Attendees were provided an opportunity to submit written comments, and the Field Office received comments from \_\_\_\_\_\_\_\_\_.

The third variance meeting, on \_\_\_\_\_\_\_\_\_, was a virtual meeting (via Zoom) open to the public. Approximately \_\_\_\_\_\_\_\_\_ individuals attended, including representatives of non-governmental organizations. Again, \_\_\_\_\_\_\_\_\_ presented their project to attendees and fielded questions and points of discussion. Inquires and questions focused on \_\_\_\_\_\_\_\_\_. Attendees were also given the opportunity to submit written comments. The Field Office did not receive any additional comments on the project or receive comments from \_\_\_\_\_\_\_\_\_ regarding \_\_\_\_\_\_\_\_\_.

[Summarize any additional meetings]

**Potential Resource Conflicts.** Internal scoping by the Field Office revealed a low potential for conflict with sensitive resources and BLM land use management objectives in the \_\_\_\_\_\_\_\_\_ RMP. Especially sensitive resources and concerns are detailed below:

* Resource 1:
* Resource 2:
* Resource 3:

**STATE DIRECTOR DETERMINATION:**

The BLM \_\_\_\_\_\_\_\_\_ State Office has considered all available data and guidance regarding the proposed \_\_\_\_\_\_\_\_\_ Solar Project application, including the project’s conformance with the \_\_\_\_\_\_\_\_\_RMP and the Western Solar Plan and the potential for sensitive natural resource impacts. External scoping with other agencies and Tribes also indicates the proposal has a low potential for conflict with their management and resource concerns.

Based on the findings of the variance application process, the BLM \_\_\_\_\_\_\_\_\_ State Director has determined that it is appropriate to process this application and undertake further environmental analysis in accordance with the NEPA.

**DECISION OPTIONS:**

In accordance with the Western Solar Plan, concurrence of the BLM Director is required to continue to process a variance application for solar energy development. There are two potential decisions:

1. Concur with the BLM \_\_\_\_\_\_\_\_\_ State Director’s favorable decision to proceed with processing this variance application.
2. Withhold concurrence and return the variance package to the State Director to either work with the applicant to modify or deny the variance application. Denial of the application is considered a “final agency action” and is appealable to the Interior Board of Land Appeals.

Concurrence will not approve the proposed project; rather, it would allow the BLM to continue processing the application and initiate its NEPA analysis. Formal scoping would yield a range of alternatives that may reduce or minimize potential impacts of the proposed project, and further analysis in an environmental assessment or environmental impact statement document would serve as the basis for any decision to ultimately approve or deny the project.

If the decision is to withhold concurrence and deny the application, the BLM can rely on its broad discretion under the Federal Land Policy and Management Act to deny ROW applications without completing a NEPA process. Nevertheless, such decisions must be made with regard for the public interest and be supported by reasoned analysis and an adequate administrative record. Denial of the application is considered a “final agency action” and is appealable to the Interior Board of Land Appeals.