



***Bureau of Land Management
Director's Summary Protest Resolution
Report***

**Desert Quartzite Solar
Project Final Plan
Amendment/Environmental
Impact Statement/
Environmental Impact Report**

January 9, 2020

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Acronyms

Term	definition
ACEC	Area of Critical Environmental Concern
ARPA	Archaeological Resources Protection Act
BLM	Bureau of Land Management
CDFW	California Department of Fish and Wildlife
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CMA	Conservation and Management Action
CRIT	Colorado River Indian Tribes
DEIR	Draft Environmental Impact Report
DEIS	Draft Environmental Impact Statement
DQSP	Desert Quartzite Solar Project
DRECP	Desert Renewable Energy Conservation Plan
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
FEIS/EIR	Final Environmental Impact Statement/Environmental Impact Report
FLPMA	Federal Land Policy and Management Act
HPTP	Historic Properties Treatment Plan
KOP	key observation point
LUP	land use plan
MOA	Memorandum of Agreement
NEPA	National Environmental Policy Act
NRHP	National Register of Historic Places
PA	Plan Amendment
ROW	right-of-way
SEZ	solar energy zone
SHPO	State Historic Preservation Officer
VRM	Visual Resource Management

Protesting Party Index

Protester	Organization	Determination
Sara Clark	Colorado River Indian Tribes (CRIT)	Denied – Issues and Comments
Kevin Emmerich	Basin and Range Watch	Denied – Issues and Comments

NEPA – Range of Alternatives

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: All of the alternatives considered in the FEIS/EIR are located close to the Mule Mountains. This is extremely concerning for the Tribes, given the Project’s potential to remove, damage, and destroy cultural resources and artifacts within the Mule Mountains and the surrounding area and the Project’s known indirect impacts to this critical cultural landscape. The agencies have failed to justify or explain why a reduced acreage alternative located further from the Mule Mountains was not considered. Thus, in compliance with NEPA’s and CEQA’s requirements to consider a reasonable range of alternatives that would reduce significant environmental impacts, FEIS/EIR should be revised to include a reduced project alternative located further from the Mule Mountains in order to reduce cultural resources impacts.

Summary:

The Bureau of Land Management (BLM) failed to provide an adequate range of alternatives. The BLM should have considered an alternative with a smaller footprint located farther from the Mule Mountains.

Response:

The BLM must analyze a range of reasonable alternatives, but is not required to consider every possible alternative to a proposed action: “In determining the alternatives to be considered, the emphasis is on what is ‘reasonable’ rather than on whether the proponent or applicant likes or is itself capable of implementing an alternative. ‘Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.’” BLM National Environmental Policy Act (NEPA) Handbook, H-1790-1, at 50 (citing Question 2a, Council on Environmental Quality [CEQ], Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, March 23, 1981); see also 40 Code of Federal Regulations (CFR) § 1502.14.

The Desert Quartzite Solar Project (DQSP) Plan Amendment (PA)/Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) noted that the BLM did consider other siting locations in development of the alternatives, but these alternatives were eliminated from further review; the rationale for elimination is presented in Section 2.9.1, *Rationale for Eliminating Alternatives* (p. 2-39). Here, the BLM describes its methodology for eliminating alternatives. Furthermore, in Section 2.9.2, the BLM notes the rationale for why different siting options were eliminated. The EIS/EIR notes that the BLM had determined through previous land use planning efforts (i.e., the Western Solar Plan and the Desert Renewable Energy Conservation Plan [DRECP]) that the DQSP site is suitable for solar development. “The Western Solar Plan identified specific locations that, at a plan level, appear well-suited for utility-scale production of solar energy where the BLM would prioritize development (i.e., solar energy zones or SEZs) as well as categories of lands to be excluded from such development. The area of the DQSP was designated as the Riverside East SEZ, signifying that the DQSP site and the surrounding area are preferred for large-scale solar energy development based on environmental and technical suitability for such development” (p. 2-43).

Furthermore, through the Western Solar Plan, BLM already considered whether other locations on public lands might be suitable for solar development and, after years of review, determined that the Riverside East SEZ, encompassing the proposed DQSP, contained areas most suitable for solar development. Similarly, the DRECP considered technical suitability and resource impacts in implementing new land use allocations for resource protection and for the focus of renewable energy

development, and recognized the area of the DQSP site as suitable for solar development by designating it as a Development Focus Area (p. 2-43).

As a result of the technical, procedural, and environmental constraints discussed in the EIS/EIR in Section 2.9.2, timely development of the Project on other lands administered by the BLM would not be feasible, and is likely to be inconsistent with the basic policy objectives for management of areas outside of the proposed Development Focus Areas (p. 2-43). In regard to considering an alternative farther away from the Mule Mountains, the BLM considered a range of reasonable alternatives in the DQSP PA/EIS/EIR in full compliance with NEPA.

Consultation and Coordination

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: The FEIS/EIR must be revised to discuss the consultation with CDFW and compliance with its requirements, as well as those of any other local, state, or federal agency with jurisdiction over the Project. Unfortunately, the agencies have failed to complete this consultation, or include discussion of any consultation in the FEIS/EIR, before the final environmental review document was issued so that decisionmakers and the public are fully informed of Project impacts. Until it does so, the FEIS/EIR's conclusions that biological impacts will be less than significant are unsupported.

Summary:

The BLM failed to consult with the California Department of Fish and Wildlife (CDFW) and other local, state, or Federal agencies with jurisdiction over the Project prior to publishing of the DQSP Final PA/EIS/EIR.

Response:

The BLM invited eligible Federal agencies, state and local governments, and federally recognized Indian tribes to participate in the DQSP PA/EIS/EIR as required by NEPA (40 CFR 1501.6) and the Federal Land Policy and Management Act (FLPMA) (43 CFR 1610.3-1(b)). The BLM consulted with the CDFW through formal and informal consultation. Table 6-1 (p. 6-1) of the DQSP Final PA/EIS/EIR lists the representatives from the CDFW who have been involved or consulted. Their participation included regular agency coordination calls with the BLM throughout the DQSP PA/EIS/EIR process and submitting comments on the DQSP Draft PA/EIS/EIR (see p. 138 of Appendix Z, DQSP Draft PA/EIS/EIR). The BLM considered the CDFW's comments in the development of the DQSP Final PA/EIS/EIS and provided responses as noted in Appendix AA.

The BLM has adequately consulted with the CDFW on the DQSP Final PA/EIS/EIR.

NEPA – Cultural Resources – Inadequate Analysis

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: Despite the Tribes' grave concerns and the close proximity of the Project to such a sensitive cultural resource area, the FEIS/EIR continues to repeatedly elevate potential direct impacts to archaeological resources above all other potential harms. For example, the FEIS/EIR concludes that the Project "will not have an adverse effect to the Mule Tank District" because the Rock Art District is "located outside of the Project area." See, e.g., FEIS at 4.5-6. Yet, this analysis

fails to consider the risks to cultural resources that come from being in the vicinity of a large development: vandalism, destruction, visual intrusion, loss of cultural value and tribal connection to the landscape, etc. Such impacts will be exacerbated by the inclusion of a southeastern access road, which will bring workers and potentially members of the public closer to sensitive resources in the Mule Mountains. FEIS/EIR at 2-6 (noting 0.7 miles of new road along the southeastern boundary). The FEIS/EIR analysis must be revised to adequately consider these impacts.

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: In the response to comments, BLM argues that impacts to landscape connectivity would not substantially burden religion. FEIS/EIR, Appendix AA at 85 (Index No. 19-4). However, to the extent that this proposed Project and its impacts prevent access to the Mule Mountains for traditional practitioners or destroy the landscape connectivity necessary to traditional cultural practices, and thereby present a substantial burden on their religious free exercise, the federal government violates the Religious Freedom Restoration Act. See *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

Summary:

The DQSP Final PA/EIS/EIR failed to adequately analyze potential impacts on cultural resources including vandalism, destruction, visual intrusion, loss of cultural value, and loss of access to tribally important areas in the Mule Mountains.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the DQSP Final PA/EIS/EIR. The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

The BLM describes the methodology for how it conducted the cultural resources impact analysis in Section 4.5.1 where the text describes the baseline information used, the assumptions, and types of effects; the text “includes information gathered as part of the NHPA §106 process about historic properties and the potential effects to such properties from the proposed undertakings” (p. 4.5-1). The BLM included a discussion of the landscape-level studies conducted during the inventory phase and Traditional Cultural Properties and Tribal Cultural Resources (see pp. 3.5-20 through 3.5-21) that were considered when looking at the cumulative analysis in Section 4.5.6.

The BLM analyzed the direct, indirect, and cumulative effects of the Project on cultural resources (see Section 4.5, *Cultural Resources*, p. 4.5-1). The BLM discussed the potential effects of development on resources important to the tribes including the possibility of destruction and vandalism, noting that “Ground-disturbing construction activities associated with the Project could directly affect cultural resources by damaging and displacing artifacts... indirect effects to archaeological resources, historic architectural resources, and places of traditional cultural importance could occur. For example, increased site access could result in vandalism or unintentional harm to cultural resources” (p. 4.5-5). The BLM also discussed the potential effects on the Mule Tank District acknowledging that the DQSP area may fall within the viewshed of the

Mule Tank District due to the district’s elevation above the Project area (p. 4.5-6). The visual contrast of the area in relation to the Mule Mountains is also discussed in Section 4.19, *Visual Resources*, specifically on pages 4.19-6 through 4.19-17. For example, the Final PA/EIS/EIR states that from key observation point (KOP) 4 (Mule Mountains) looking toward the Project area, the Project “would cause Moderate to Strong contrast in form, color and texture due to the density and movement of construction equipment and activities as well as smooth-textured and distinct tan color of graded areas, which would provide moderate contrast against the natural setting of the Chuckwalla Valley and the Palo Verde Mesa” (p. 4.19-6).

The reduction in access was discussed in Section 4.17.3.1 (p. 4.17-4 of the DQSP Final PA/EIS/EIR). The BLM acknowledges that fencing of the Project area would eliminate public access to six open routes, including three routes that provide access to the Mule Mountain Area of Critical Environmental Concern (ACEC); however, the Final PA/EIS/EIR noted, “alternative access to the Mule Mountains would occur by traveling west on 22nd Avenue to Gravel Pit Road, southwest along Gravel Pit Road, and then west on an unpaved extension of 24th Avenue to BLM Routes 660863 and 661093” (see p. 4.5-7 and Figure 3.14-3 in Appendix A).

The BLM was unable to obtain sufficient information from Colorado River Indian Tribes (CRIT) or other tribes to define the cultural values associated with the Mule Mountains and how these values might be affected visually or otherwise by the DQSP. On May 9, 2019, the BLM made a request to the 15 tribes, including CRIT, to provide additional information regarding cultural values associated with the Mule Mountains that may be germane to indirect effects for all alternatives. Not discussed in the Final PA/EIS/EIR: the BLM received two tribal letters in response to the BLM’s May 9, 2019, letter. One was from the Augustine Band of Cahuilla Indians. This letter is dated May 21, 2019, and indicates that the tribe is not aware of any specific cultural resources that would be affected by the DQSP. The other letter, dated June 5, 2019, is from the Twenty-Nine Palms Band of Mission Indians. This letter indicates that the tribe agrees that if the BLM were to select Alternative 1, a Memorandum of Agreement (MOA) process would be needed to resolve adverse effects. To date, the BLM has not received a response from CRIT regarding the BLM’s May 9, 2019, letter request. The DQSP Final PA/EIS/EIR (see pp. 3.5-1, 3.5-7, 3.5-21, and 6-5) demonstrates the BLM’s efforts to obtain information regarding cultural values associated with the Mule Mountains.

The BLM complied with NEPA’s requirement to analyze the environmental consequences to cultural resources in the DQSP Final PA/EIS/EIR.

NEPA – Cultural Resources – Cumulative Effects

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: BLM’s claim that it has analyzed the “direct, indirect, and cumulative effects to cultural resources” is undermined by the fact that it has utterly failed to consider the impacts at a landscape level. Project by project, the Tribes’ cultural footprint is being erased and this Project is no exception. The FEIS/EIR’s omission of any discussion of cultural landscapes violates both NEPA and CEQA and is therefore highly prejudicial. The analysis must be revised to properly account for and mitigate these impacts.

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: In ignoring the connective and cumulative value of these resources, the FEIS/EIR fails to evaluate whether any of these non-eligible prehistoric archaeological sites or isolates contribute to the cultural landscapes discussed in the prior section. Even if these resources are not significant on their own- a characterization that the Tribes do not support- the FEIS/EIR must be

revised to evaluate whether these resources are significant because of their contribution to a broader cultural landscape.

The FEIS/EIR’s focus only on “eligible” resources misconstrues state and federal law. “The FEIS/EIR must avoid conflating eligibility for the CRHR with significant impacts analysis under CEQA. Impacts to archaeological resources considered non-eligible for listing on the CRHR- perhaps because of their lack of integrity- may nevertheless be significant for CEQA purposes. Pub. Resources Code § 21074(2).” Similarly, BLM must not equate significant cultural resources with only those buildings, sites, structures, objects, and districts eligible for inclusions on the NRHP. NEPA guidelines specify that EISs must address impacts to “historic and cultural resources” (40 C.F.R. § 1502.16(g) (emphasis added)), thus requiring a more expansive analysis than the one undertaken for National Historic Preservation Act purposes. The FEIS/EIR must be revised to properly consider these resource impacts under CEQA and NEPA, respectively.

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: Unsurprisingly, given this faulty analysis, the FEIS/EIR then concludes that “the Project’s contribution to impacts would not be cumulatively considerable.” FEIS/EIR at 4.5-13. The FEIS/EIR appears to reach this conclusion because the Project’s direct destruction of cultural resources is only a small fraction of the overall total of cultural resources in the study area. Id. at 4.5-13. But this is the exact circumstance in which a cumulative impact should be recognized - where the individual project’s contribution looks tiny on its own, but together with other projects represents a significant impact on a resource. E.g., *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692 (1990). The FEIS/EIR must be revised to recognize the Project’s cumulatively significant impact.

Summary:

The BLM’s focus on only “eligible” cultural resources and failure to include non-eligible sites and isolates in the cumulative analysis misconstrued Federal law. The BLM failed to adequately analyze cumulative effects on cultural resources by not considering impacts at a landscape level.

Response:

The BLM must discuss the cumulative effects of the proposed action and the alternatives when preparing an EIS (BLM Handbook H-1790-1, Section 6.8.3). The CEQ’s regulations define cumulative effects as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions” (40 CFR 1508.7).

The BLM defined the methodology for analyzing cultural resources in Section 4.5.1 of the DQSP Final PA/EIS/EIR. Here, the BLM states, “For purposes of NEPA, this Final PA/EIS/EIR includes information gathered as part of the NHPA §106 process about historic properties and the potential effects to such properties from the proposed undertakings... Section 106 of the NHPA requires that the agency take into account the effects of undertakings on historic properties, defined as any district, site, building, structure, or object that is included in or eligible for inclusion in the” National Register of Historic Places (NRHP) (p. 4.5-1). However, even though, by definition, a non-eligible site would have a finding of “no effect” under Section 106, the BLM still used the information from the field inventory investigations, including non-eligible sites and isolates as described on pages 3.5-8 through 3.5-19 of the DQSP Final PA/EIS/EIR. Furthermore, the section includes a discussion of the landscape-level studies conducted during the inventory phase and

Traditional Cultural Properties and Tribal Cultural Resources (see pp. 3.5-20 through 3.5-21) that were considered when looking at the cumulative analysis in Section 4.5.6.

The BLM’s methodology for analyzing cumulative effects on cultural resources is described in Section 4.1.5, *Cumulative Scenario Approach*, and in the cultural resources cumulative effects analysis on pages 4.5-12 through 4.5-14 of the DQSP Final PA/EIS/EIR. The BLM defined the geographic scope of analysis for cultural sites, traditional use areas, and cultural landscapes on the solar plant site, along the linear facilities corridor, and in the area of potential effects as “based on the natural boundaries and physical conditions relevant to the resource affected, rather than jurisdictional boundaries...but not beyond the scope of the direct and indirect effects of the Proposed Action and alternatives” (Table 4.1-1, p. 4.1-7). The DQSP Final PA/EIS/EIR also described the timeframe that cumulative effects may occur, the types of projects that would be likely to occur, the types of archaeological sites and districts that could be affected, and the nature and type of effects that would be possible on the cultural landscape consisting of hearth features, trails, campsites, habitation sites, lithic scatters, and ceramic scatters (see p. 4.5-12 through 4.5-14 of the DQSP Final PA/EIS/EIR).

The BLM complied with NEPA’s and NHPA’s requirement to analyze the cumulative effects on cultural resources in the DQSP Final PA/EIS/EIR.

NEPA – Cultural Resources - Mitigation

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: Further, BLM states that it will continue to consult Tribes “in the development of mitigation, monitoring, and discovery plans outlined in mitigation measure CULTURAL- 5 to address any discoveries during construction and operation of the facility.” FEIS/EIR, Appendix AA at 85 (Index No. 19-4). However, there is no discussion of the parameters for including Tribes within mitigation measure CULTURAL-5 or any indication of what these mitigation plans will actually do. This improper deferral of mitigation violates both NEPA and CEQA.

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: BLM continues to rely on data recovery, removal of resources, and long-term curation as “mitigation” for impacts to prehistoric cultural resources. See, e.g., Appx. G-41 e Resolution of adverse effects to historic properties will be developed in consultation and may include research and documentation, data recovery excavations, curation, public interpretation, or use or creation of historic contexts.”); id. (“An example of treatment is data recovery at affected sites.”). BLM attempts to paint data recovery as a way to “teac[h] us about the lives of historic people,” all while ignoring the very real cultural and spiritual impacts on the living descendants of those people. FEIS/EIR at 4.5-10. As CRIT has repeatedly informed BLM, such efforts do not- in any way- mitigate for the significant cultural harms caused by removing the footprint of tribal members’ ancestors from the landscape. Indeed, such measures cause more harm than good. BLM has informed CRIT that it is “required” by law to curate such resources, and that it cannot allow such resources to be reburied or otherwise left on-site. As CRIT has previously explained to BLM, this position is not supported by the Archaeological Resources Protection Act (ARPA), curation regulations, or any ongoing or prior litigation.

Summary:

The BLM violated NEPA, the ARPA, and the NHPA by deferring mitigation processes and commitments to a future date. The BLM is nonconforming to the ARPA and curation regulations by failing to consider reburial of cultural resources unearthed during construction of the DQSP.

Response:

NEPA requires the BLM to include a discussion of measures that may mitigate adverse environmental impacts (40 CFR 1502.14(f), 40 CFR 1502.16(h)). Potential forms of mitigation include: (1) avoiding the impact altogether by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or (5) compensating for the impact by replacing or providing substitute resources or environments (40 CFR 1508.20).

Similarly, Section 106 of the NHPA requires a Federal agency to consider the potential effects of its undertaking on historic properties. When a Federal agency has found that an undertaking may adversely affect historic properties, it must develop and consider alternatives or measures to avoid, minimize, or mitigate such effects. The State Historic Preservation Officer (SHPO) concurred with the BLM's determinations of eligibility on September 24, 2019,¹ including the assessment of effects for the Proposed Action (Alternative 1), which: "would result in direct adverse effects to historic properties. Should Alternative one become the selected alternative, the BLM will continue Section 106 consultation to resolve adverse effects through a Memorandum of Agreement prior to the NEPA Record of Decision." The SHPO also concurred with the BLM's determination that there would be no adverse effects if Alternatives 2 (Resource Avoidance Alternative) became the selected alternative.

The regulations implementing NHPA Section 106 (36 CFR Part 800) allow a range of options when determining what constitutes appropriate mitigation of adverse effects on historic properties; alternative mitigation is not prohibited and there is no prescription for specific measures (36 CFR § 800.6(a)). The BLM may opt to develop alternative, creative measures with cooperating agencies, project proponents, and tribal governments, including compensating for the impact by providing substitute resources or funding, as part of resolving adverse effects.

The DQSP Final PA/EIS/EIR includes appropriate measures to mitigate effects on cultural resources and describes future tribal participation. As stated on page 4.6-7 of the DQSP Final PA/EIS/EIR, NHPA Section 106 government-to-government consultation with interested Native American tribes is ongoing. Should the Proposed Action be approved, mitigation measures CULTURAL-1 and CULTURAL-2 would serve to mitigate adverse effects on historic properties as a result of the Project. Government-to-government consultation will occur between the BLM and Native American tribes during implementation of mitigation measures CULTURAL-1 and CULTURAL-2. Provisions to resolve the adverse effects on historic properties would be described in an MOA and a Historic Properties Treatment Plan (HPTP) prepared in accordance with Section 106 of the NHPA. Mitigation measure CULTURAL-1 would only apply if Alternative 1 (Proposed Action) becomes the selected alternative because only Alternative 1 would result in direct adverse effects on historic properties. However, mitigation measure CULTURAL-2 would still apply if Alternative 2 or Alternative 3 become the selected alternative.

¹ State of California, Department of Parks and Recreation – Office of Historic Preservation. Re: Continued Section 106 consultation for the Desert Quartzite Solar Photovoltaic Project, Riverside County, Ca. From Julianne Polanco, State Historic Preservation Officer to Douglas J. Herrema, Field Manager, BLM. Sent via email on September 24, 2019.

As noted on page G-1, Appendix G of the DQSP Final PA/EIS/EIR, mitigation measures have been developed from a combination of sources and regulatory requirements of other Federal, state, and local agencies. Mitigation measure CULTURAL-5 (DQSP Final PA/EIS/EIR, Appendix G, p. G-42) states: “[the Monitoring and Discovery Plan] shall also detail procedures for halting construction, making appropriate notifications to agencies, officials, and Native American tribes, and assessing NRHP [National Register of Historic Places] and CRHR [California Register of Historical Resources] eligibility in the event that unknown archaeological resources are discovered during construction.” Additionally, mitigation measure CULTURAL-4 (DQSP Final PA/EIS/EIR, Appendix G, p. G-42) provides that the Native American Tribal Monitor will be consulted to discuss the significance of archaeological sites discovered during construction, operation and maintenance, or decommissioning. Mitigation measure CULTURAL-7 (DQSP Final PA/EIS/EIR, Appendix G, p. G-43) states that the Cultural Resources Monitoring Report shall be submitted to the BLM, County, Eastern Information Center, Patton Memorial Museum, and interested tribes.

Tribal consultation has been incorporated as a component of measures to address monitoring and unanticipated discoveries during construction, operation, and decommissioning of the DQSP. Specifically, management recommendations considered by the BLM include those contained in Appendix P (Class III Cultural Survey Report) of the DQSP Final PA/EIS/EIR. Specifically, Addendum 2 of Appendix P (p. 53) states: “recommended measures should be included in a MOA that will include a HPTP and a Monitoring and Discovery Plan to address potential unanticipated discoveries that could occur during the course of Project construction and operation. As noted in the draft EIS/EIR, the MOA will be developed by the BLM in consultation with the Advisory Council on Historic Preservation (ACHP), SHPO, the Applicant, Riverside County, interested Native American Tribes, and any other consulting parties, as appropriate. The MOA will describe the adverse effects to . . . historic properties, will include measures to resolve the adverse effects, and must be executed prior to the BLM’s issuance of the Record of Decision (ROD). Specific measures to resolve adverse effects will be developed in a HPTP and included as an attachment to the MOA. Execution of the MOA will conclude the Section 106 process.”

36 CFR §800.1(c) requires the agency official to complete the Section 106 process “prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license.” Accordingly, should Alternative 1 (Proposed Action) be selected, the MOA would be developed by the BLM in consultation with the Advisory Council on Historic Preservation, SHPO, the Applicant, Riverside County, interested Native American tribes, and any other consulting parties, as appropriate. The MOA would describe the adverse effects on historic properties, would include measures to resolve the adverse effects, and would be executed prior to the BLM’s issuance of the Record of Decision (see p. 4.5-3 of the DQSP Final PA/EIS/EIR). Because there would be no adverse effects on historic properties if Alternative 2 or Alternative 3 is selected, an MOA would not be required.

BLM curation of artifacts: The BLM is required to ensure that curation and disposition of all archaeological and historical materials and data from Federal lands conform to 36 CFR 79 and the Secretary of the Interior’s Standards for Archaeological Documentation. Federal law and regulation require Federal collections be deposited in an established professional curation repository that can provide long-term care (curation or curatorial services) and whose demonstrated mission is to house, preserve, document, research, interpret, and exhibit the material in trust for present and future generations. The treatment and disposition of museum objects discovered on BLM lands rests wholly with the BLM and there is a lack of discretionary prerogatives for agencies in the curation of museum property/collections, as Federal requirements/standards for the deposition and care of Federal museum collections are clearly laid out (California IB-2016-007).

Environmental Justice

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: The FEIS/EIR contains no discussion specific to Native American groups whatsoever, choosing instead to move topically through a number of potential environmental justice issues: Air Resources, Geology and Soils, Hazards and Hazardous Materials, Noise, Recreation and Public Access, Social and Economic Effects, Transportation and Traffic, Visual Resources, and Water Resources. FEIS/EIR at 4.6-2 -3. Yet, even in its discussion of Social and Economic Issues, the FEIS/EIR limits its discussion to housing and makes no mention of the unique impacts that this kind of development has on tribal groups. FEIS/EIR at 4.6-4.

This gross omission renders the analysis inadequate under federal and state law. Unlike most members of the public, tribal members maintain long-standing ancestral and traditional practices that connect their identities to specific environments. Tribal members cannot easily shift their use and enjoyment of public lands to other, non-industrialized areas, as may be the case for many members of the public. Once these ancestral ties are severed, either by the removal of cultural resources or the fencing and development of the entire site, they cannot be regained. Consequently, the FEIS/EIR must be revised to recognize the significant environmental justice impacts of the proposed Project on CRIT and other affected tribes.

Summary:

The DQSP Final PA/EIS/EIR fails to adequately analyze environmental justice implications by not considering Native American groups in the analysis.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of the DQSP Final PA/EIS/EIR.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action. A land use planning-level decision is broad in scope. For this reason, analysis of the land use plan amendment alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions.

The BLM is responsible for implementing the provisions of Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. Accordingly, the BLM analyzed whether the alternatives would adversely and disproportionately affect minority populations, low-income communities, and tribes and considered the aggregate, cumulative, and synergistic effects of its actions along with the actions taken by other parties. While environmental justice analysis is specifically concerned with disproportionate effects on environmental justice communities, the social and economic analysis produced in accordance with NEPA considers all potential social and economic effects, positive and negative, on any distinct group (BLM Land Use Planning Handbook, Appendix D, p. D-11).

The BLM identified the Colorado River Indian Reservation as an environmental justice community in Section 3.6 (p. 3.6-1) of the DQSP Final PA/EIS/EIR, and tribal lands are shown on Figure 3.6-1. The BLM addressed the requirements of NEPA and Executive Order 12898 in Section 4.6, *Environmental Justice* (p. 4.6-1). The environmental justice discussion in Section 4.6 draws conclusions as to whether minority, low-income, and/or tribal peoples have a disproportionate share of the negative environmental consequences resulting from the Project and/or plan amendments. The BLM determined that the action alternatives were not expected to cause disproportionately high or adverse impacts on minority and/or low income populations, inclusive of tribal peoples and the Colorado River Indian River Reservation. The BLM reviewed the findings and analysis contained in the following sections of the DQSP Final PA/EIS/EIR as part of the environmental justice analysis: 4.2, *Air Resources*; 4.7, *Geology and Soils*; 4.9, *Hazards and Hazardous Materials*; 4.12, *Noise*; 4.14, *Recreation and Public Access*; 4.15, *Social and Economic Effects*; 4.17, *Transportation and Traffic*; 4.19, *Visual Resources*; and 4.20, *Water Resources*. Refer to Section 4.6.1 of the DQSP Final PA/EIS/EIR (p. 4.6-1) for a discussion of the methodology used in the effects analysis for environmental justice. In reviewing each of these sections, the environmental justice analysis considered potential impacts and mitigation measures and whether a disproportionately high and adverse impact would result for the area within 6 miles of the proposed Project site, or on the secondary area that includes the Colorado River Indian Reservation. The analysis concluded that impacts on these resources would not be disproportionately high or adverse for environmental justice populations (including tribal peoples and the Colorado River Indian River Reservation) in these areas, regardless of which action alternative is selected.

The BLM complied with NEPA's requirement to analyze the environmental justice impacts in the DQSP Final PA/EIS/EIR.

Response to Comments

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: CRIT raised several issues with respect to the DEIS/EIR released for this Project on August 10, 2018. FEIS/EIR, Appendix Z at 155-186. In reviewing BLM's response to these comments, it appears that BLM's efforts amount to little more than a summary or recitation of the concerns raised by the Tribes. This effort violates NEPA. 40 C.F.R. § 1503.4; *State of California v. Block*, 690 F.2d 753, 773 (9th Cir. 1982) (lead agency must provide "good faith, reasoned analysis in response" to comments raised on draft environmental review documents) (internal citations and quotations omitted). As BLM staff failed to address the serious concerns raised by the Tribes, CRIT is compelled to file this protest letter seeking additional review.

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: BLM does not respond to CRIT's specific request to update CUL-4, Procedure 2 to explicitly state that local area tribes should be involved in determining the appropriate treatment for cultural resources on BLM-managed lands, rather than just BLM alone. Additionally, BLM does not respond to CRIT's specific request to update CUL-4, Procedure 3 to explicitly state that ground disturbance shall not resume in the area of the discovery until a consultation with local area tribes is completed. These failures render the final mitigation measures inconsistent with the NHPA.

Basin and Range Watch

Kevin Emmerich

Issue Excerpt Text: BLM Master Response 5a fails to specifically address the comments about Executive and Secretarial Orders. In many cases, the BLM interprets these orders into the purpose

and need statement. The DEIS did not follow Secretarial Order 3355 and failed to meet that timeline, yet it is justified in the Purpose and Need Statement.

Summary:

The DQSP Final PA/EIS/EIR did not adequately respond to public comments received on the DQSP Draft PA/EIS/EIR.

Response:

The BLM is required to assess, consider, and respond to all substantive comments received (40 CFR 1503.4). Substantive comments are those that reveal new information, missing information, or flawed analysis that would substantially change conclusions (BLM Handbook H-1601-1, pp. 23–24).

In compliance with NEPA, the BLM considered all public comments submitted on the DQSP Final PA/EIS/EIR. The BLM complied with 40 CFR 1503.4 by performing a detailed comment analysis that assessed and considered all substantive comments received. Appendix AA of the DQSP Final PA/EIS/EIR presents summarized the issues raised by comment letters and meaningful responses to all substantive comments. The BLM's responses to comments on the DQSP Draft PA/EIS/EIR raised by CRIT are found in Appendix AA of the DQSP Final PA/EIS/EIR (comment index numbers 19-1 through 19-32). In its responses, the BLM identified any modifications to the alternatives, clarification and additional information added as a result of the public comment, improvements to the impacts analysis, and factual corrections made as a result of public comment. The BLM's response also explains why certain public comments did not warrant further agency response.

The BLM's response to CRIT's request to revise mitigation measure CULTURAL-4, procedures 2 and 3, is found in Appendix AA, Index Number 19-15 of the DQSP Final PA/EIS/EIR. In response to the comment, the BLM added language to mitigation measure CULTURAL-4, procedure 2, to clarify that appropriate treatment for cultural resources on BLM-managed land will be determined in accordance with 36 CFR 800.13 (DQSP Final PA/EIS/EIR Appendix G, p. G-42). Procedure 4 of mitigation measure CULTURAL-4 of the DQSP Final PA/EIS/EIR (Appendix G, p. G-42) states: "Further ground disturbance shall not resume within the area of the discovery until a meeting is convened with the aforementioned parties and a decision is made with the concurrence of the BLM and (on private land) the County Archaeologist as to the appropriate preservation or mitigation measures." The Native American Tribal Monitor (see mitigation measure CULTURAL-6, Appendix G, p. G-43) is identified as a consulting party in procedures 1 and 2 of mitigation measure CULTURAL-4.

As stated in Appendix AA of the DQSP Final PA/EIS/EIR (Index Number 11-12), the DQSP PA/EIS/EIR was already in preparation when Secretarial Order 3355 was issued. The BLM received a page count waiver from the Department of the Interior and the BLM has taken steps to comply with this order, such as simplifying and reducing redundancy within the main text of the DQSP Final PA/EIS/EIR, as discussed in Section 1.9 (see pp. 1-18 through 1-20 of the DQSP Final PA/EIS/EIR). This simplification includes deletion of redundant text and non-substantive introductory text, and movement of non-site-specific regional and background information in Chapter 3 (*Affected Environment*) to Appendix D (*Regional Affected Environment*). These streamlining actions are not a substantial change in the Proposed Action or significant new information that would require a supplemental EIS under 40 CFR § 1502.9(c).

The BLM adequately responded to public comments of the DQSP Draft PA/EIS/EIR.

Tribal Consultation

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: As detailed in the Tribes comment letter on the DEIS/EIR, government-to-government consultation for this Project has been inadequate. In May 2016, the Colorado River Indian Tribes adopted a government-to-government consultation policy to manage its relationship with federal agencies. See FEIS/EIR, Appendix Z at 174-79. CRIT requested that each federal agency acknowledge the policy prior to conducting government-to-government consultation with its Tribal Council. The Tribes informed BLM that it would not meet with BLM decisionmakers until BLM acknowledged the policy. The purpose of this request was to ensure that BLM was aware of CRIT's definition of adequate consultation prior to spending the time and resources engaging in consultation. Contrary to responses to comment, CRIT has not yet received any indication that the BLM office responsible for this Project acknowledged the policy. While CRIT is very open to conducting in-person, government-to-government consultation with BLM regarding this Project, any consultation meeting would need to include acknowledgment and discussion of this policy.

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: In its analysis of whether the Project would cause a substantial adverse change to a resource identified through consultation with any California Native American tribe that requests consultation, BLM mentions only its consultation with Twenty-Nine Palms Band of Mission Indians Tribe. FEIS/EIR at 4.5-11. Despite the Tribes' repeated requests for Section 106 consultation on this Project, BLM only reached out to CRIT to set up government-to-government consultation in September 2018, once the DEIS had already been issued. FEIS/EIR at 6-5. Such a delay defeats the purposes of Section 106 consultation, which is meant to give tribes an opportunity to provide valuable input that will be meaningfully considered in the planning process. See 36 C.F.R. § 800.1(c) ("The agency official shall ensure that the section 106 process is initiated early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process for the undertaking."); see also FEIS/EIR, Appendix Z at 174-79. Waiting until the DEIR has already been issued and much of the analysis has already been undertaken is not in keeping with BLM's consultation responsibilities.

Summary:

The BLM failed to conduct adequate government-to-government consultation for the DQSP PA/EIS/EIR. The BLM failed to acknowledge the May 2016 CRIT government-to-government consultation policy to manage its relationship with Federal agencies.

Response:

Section 101(d)(6) of the NHPA requires that "in carrying out its responsibilities under section 106, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties [of traditional religious and cultural importance to be eligible for inclusion on the National Register]." It is BLM policy to "consult with affected tribes to identify and consider their concerns in BLM land use planning and decision-making, and [the BLM] shall document all consultation efforts" (BLM Manual Section 8120.06.E). While the BLM manager must give tribal concerns and preferences due consideration and make a good-faith effort to address them as an integral part of the decision-making process, final decisions may not always conform with the preferences and suggestions of the tribes (BLM Handbook H-8120-1, p. V-11).

The BLM has consulted with tribal governments throughout the development of the DQSP PA/EIS/EIR. The BLM’s consultation with tribal governments is summarized in Section 6.3.3 of the DQSP Final PA/EIS/EIR (p. 6-4).

A specific legal requirement to notify Native Americans can generally be met through certified mail, return receipt requested, or delivery confirmation from a delivery service (BLM Handbook H-8120-1, p. V-7). The BLM has reviewed the CRIT consultation policy and the District Manager, California Desert District, has sent a response letter to CRIT outlining the BLM’s established policies and procedures for Government-to-Government Consultation with Tribal Governments (MS-1780).² Additional Federal documents directing the BLM’s approach to government-to-government consultation were also provided in the correspondence, as well as a commitment to continue consultation with CRIT. For the DQSP, the BLM has consulted, and continues to consult, with 15 tribes, including the Agua Caliente Band of Cahuilla Indians, Augustine Band of Cahuilla Indians, Cabazon Band of Mission Indians, Cahuilla Band of Mission Indians, Chemehuevi Cultural Center, Cocopah Indian Tribe, CRIT, Fort Mojave Indian Tribe, Fort Yuma Quechan Tribe, Morongo Band of Mission Indians, Ramona Band of Cahuilla Mission Indians, San Manuel Band of Mission Indians, Soboba Band of Luiseno Indians, Torres Martinez Desert Cahuilla Indians, and Twenty-Nine Palms Band of Mission Indians.

As noted in Appendix AA of the DQSP Final PA/EIS/EIR (Index Number 19-31), the BLM has notified the tribes and requested government-to-government consultation at every key juncture in the Section 106 and NEPA processes for the proposed Project. These key junctures include at the earliest stages of Project review in March 2014 and again when the BLM transmitted the cultural resource work plan in August 2014. The BLM invited the tribes to visit the site on June 10, 2015, in which CRIT participated. On April 20, 2016, the BLM sent tribes a copy of the Class III cultural report and extended another offer to consult with tribes. On April 4, 2018, the BLM notified tribes of its intent to conduct additional site tests and extended an offer to consult. The BLM invited tribes to consult when the BLM made its determination of eligibility and findings of effect on June 22, 2018. In a letter dated August 9, 2018, the BLM notified the 15 tribes, including CRIT, about the release of the Draft PA/EIS/EIR for public comment. The BLM notified the public and tribes of a public meeting on the Draft PA/EIS/EIR held by the BLM in Palm Desert and Blythe, CA on September 26 and 27, 2018, where a member of the CRIT attended. Each tribe received a CD copy of the Draft PA/EIS/EIR and instructions for commenting. The August 9, 2018, letter also offered government-to-government consultation with each tribe, including CRIT, and the BLM held government-to-government consultation with the Cahuilla Band of Mission Indians and 29 Palms Band of Mission Indians. Please also see Index Number 19-30 of Appendix AA. On May 9, 2019, the BLM made another request for the tribes to provide information regarding resources within the Mule Mountains.

The BLM adequately consulted with tribal governments regarding the DQSP PA/EIS/EIR.

NEPA – Visual Resources – Inadequate Analysis

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: BLM failed to update the Visual Resources section of the FEIS/EIR to take into account of the Project’s visual impacts on Tribal members. Rather, BLM purports to address these concerns by updating Sections 3.5 and 4.5.3.1 to include additional information summarized in the addendums 2 and 3 of the Class III report prepared for the Desert Quartzite Solar Project. FEIS/EIR,

² Bureau of Land Management, California Desert District. Re: Government-to-Government Consultation Policy of the Colorado River Indian Tribes, Sent via Certified Mail January 8, 2018.

Appendix AA at 92 (Index No. 19-19). However, neither of these sections discuss or address the Project’s visual impact on Tribal members and the cultural landscape.

Summary:

The BLM failed to update the *Visual Resources* section of the DQSP Final PA/EIS/EIR to take into account the DQSP visual impacts on tribal members.

Response:

The BLM provided an update to the Project effects on visual resources in Appendix P, Chapter 5 of Addendum 2 (p. 51) of the DQSP Final PA/EIS/EIR, which provides an analysis of potential indirect visual effects that could result from the DQSP. The analysis for visual resources assesses the effects on dispersed recreation, which includes tribal representatives visiting the area for cultural and ceremonial uses. Addendum 2 relied on visual simulations of the Project area from eight KOPs, one of which (KOP 4) was located at NRHP-listed site P-33-000773, in the Mule Mountains, approximately 1 mile from the southwestern boundary of the DQSP. The visual analysis prepared for the DQSP Draft PA/EIS/EIR concluded that Alternative 1 (Proposed Action) would result in a slight reduction in scenic quality for viewers in the Mule Mountains and that even with visual mitigation in the form of design elements to reduce form, color, line, and texture contrast, the DQSP would have moderate adverse impacts on visual resources due to moderate to strong visual contrast and impacts experienced within the foreground/midground zone (Appendix P, p. 51).

As noted in Appendix AA of the DQSP Final PA/EIS/EIR (Index Number 19-19), Sections 3.5 and 4.5.3.1 (*Cultural Resources*) of the DQSP Final PA/EIS/EIR were updated to include additional information summarized in Addendums 2 and 3 of the Class III report prepared for the DQSP.

The BLM’s overall Visual Resource Management (VRM) policy contained in BLM Manual 8400 is a mandatory land use management policy intended to be administered consistently across BLM-administered lands. Instruction Memorandum 2009-167 (Application of the Visual Resource Management Program to Renewable Energy) clarifies the BLM’s VRM policies and procedures for consistent VRM implementation and application. BLM policy specifies that all visual impacts are to be mitigated. The analysis contained in the DQSP Final PA/EIS/EIR determined that most viewers (including tribal members) would experience transient impacts at KOP 4 and NRHP-listed site P-33-000773 (see Appendix G of the DQSP Final PA/EIS/EIR, pp. 51 and 53). As a result, the BLM updated the NRHP registration form to include P-33-000773 and will update, as appropriate, the MOA (if Alternative 1 is selected), the HPTP, and the Monitoring and Discovery Plan.

The BLM complied with NEPA’s requirement to analyze the environmental consequences to visual resources in the DQSP Final PA/EIS/EIR.

NEPA – Purpose and Need

Colorado River Indian Tribes

Sara Clark

Issue Excerpt Text: BLM states that “[o]ther alternative sites, technologies and methods ... were considered by the BLM but eliminated from detailed analysis under NEPA.” FEIS/EIR at 2-39. The alternative locations considered were all rejected. FEIS/EIR at 2-41 to -44. Relying on its improperly narrow statement of purpose and need, BLM failed to consider alternative technologies, projects, or locations that could meet the same renewable energy goals as the proposed Project without the same devastating environmental and cultural impacts. The FEIS/EIR analysis must be revised to correct this error.

Basin and Range Watch

Kevin Emmerich

Issue Excerpt Text: We sill [sic] maintain that the Purpose and Need Statement is too narrow. According to the BLM’s NEPA Handbook, The purpose and need for the action is usually related to achieving goals and objectives of the LUP; reflect this in your purpose and need statement... For the California Desert Conservation Area, the FEIS Purpose and Need Statement fails to fully consider the limitations the project would impose on Class M management areas for the CDCA and how closing off so many acres to public access would not meet Class M Multiple Use objectives... The narrow scope of the Purpose and Need Statement and the lack of reasonable alternatives considered fail to consider all of the elements of the California Desert Conservation Area plan.

Summary:

The BLM’s purpose and need statement was too narrow and failed to consider:

- Alternative technologies, projects, or locations that could meet the same renewable energy goals as the DQSP, and
- All of the elements of the CDCA plan.

Response:

In accordance with NEPA, the BLM has discretion to establish the purpose and need for a proposed action (40 CFR 1502.13). The BLM must construct its purpose and need to conform to existing decisions, policies, regulation, or law (BLM Handbook H-1790-1, Section 6.2). The purpose and need may not be so narrow that only one alternative becomes a foreordained outcome, and may not be so broad that an infinite number of possibilities could accomplish the goals of the project.

The BLM established the purpose and need for the DQSP Final PA/EIS/EIR, which is described at Section 1.3.1 of the Final EIS/EIR, to meet Title V of the FLPMA of 1976 (43 USC §1761(a)(4)). The primary action that the BLM considered is a response to a specific right-of-way (ROW) grant application from the Applicant to construct and operate a specific solar project on a specific site managed by the BLM. As a result, the BLM determined that a key purpose of this Project was to determine whether to approve, approve with conditions, or deny that ROW application for the Proposed Action. This allowed the BLM to consider three alternatives on the Project site and the No Action alternative. As stated in Section 2.2.2 of the DQSP Final PA/EIS/EIR, the Project (Alternative 1), Resource Avoidance Alternative (Alternative 2), and Reduced Project Alternative (Alternative 3) were found to meet the requirements set forth by Section 6.6.3 of the BLM NEPA Handbook (H-1790-1), and were therefore carried forward for more detailed analysis in Chapter 4. The purpose and need provided the appropriate scope to allow the BLM to analyze a reasonable number of alternatives that represent alternative approaches to decide whether to approve, approve with modification(s), or deny issuance of a ROW grant, and to allow the BLM to consider the associated land use plan amendments that would follow as part of the ROW action.

In addition to the alternatives considered in detail, Section 2.9, *Alternatives Considered but Eliminated from Detailed Analysis*, provided detailed explanation as to how and why the BLM eliminated other alternatives suggested by the public during scoping and in the Draft EIS/EIR. Alternatives eliminated from detailed analysis included alternative sites (Section 2.9.2.1, p. 2-41), alternative construction methods (Section 2.9.2.2, p. 2-44), and alternative designs and layouts and alternative technologies for generating or delivering power. The BLM encouraged the Applicant to locate its Project on public land with the fewest potential conflicts and avoid BLM locations with significant environmental concerns, such as critical habitat, ACECs, Tortoise Conservation Areas and

associated wildlife linkages, designated off-highway vehicle areas, wilderness study areas, and designated wilderness areas.

As the introduction in Appendix E notes, the “EIS/EIR has been based on the management framework that was available under the CDCA Plan, and on BLM’s renewable energy siting, data collection, and impact analysis requirements that were in place as of March 6, 2015” (p. E-1). The BLM did not consider all management prescriptions of the DRECP that applied the DRECP Conservation and Management Actions (CMAs) because the DQSP was not subject to the DRECP due to the DQSP’s status as a pending application at the time the DRECP was signed (DRECP Section II.3.2.4, pp. 68–69, as quoted in Appendix E, p. E-1).

The BLM explained the relationship of the Final EIS/EIR to the CDCA management framework throughout Appendix E. The BLM provided an analysis of the DRECP’s effect on BLM’s land management use allocations that were operative under the CDCA Plan in Appendix E of the DQSP Final PA/EIS/EIR. For example, Section 2.1, *Onsite and Adjacent Land Use Allocations*, states that “Under the CDCA Plan, the Project area was designated as Multiple Use Class – Moderate (MUC-M). Section 4.10 of the EIS/EIR evaluates the conformance of the Project with this classification” (p. E-2). Another example in Section 2.2, *Nearby Land Use Allocations*, states that, “Under the CDCA Plan, land use allocations in the vicinity of the Project were designated according to the MUC system. The directly adjacent lands were designated the same as the Project site, as MUC-M. MUC-Limited (MUC-L) and MUC-Intensive (MUC-I) lands are also present in the Project vicinity. Section 4.10 of the EIS/EIR evaluated the impact of the Project within the context of the overall amount of MUC-M land within the Project vicinity” (p. E-3). This analysis is noted in subsequent sections and includes explanation for consideration of the VRM classification, resource protection allocations (e.g., ACECs, Wilderness Areas), and recreation. Appendix E of the DQSP Final PA/EIS/EIR also evaluated CMAs with respect to the DQSP. In general, the analysis revealed that the DQSP design and/or mitigation measures satisfy applicable CMAs. In many cases, wording changes were made to mitigation measures to bring the language into line with the CMA language. In cases where no such changes are made, the analysis describes why the Applicant is not required to modify the Project or mitigate potential impacts, or why the CMA does not apply (see pp. E-4 and E-5 of Appendix E).

The purpose and need statement for the DQSP Final PA/EIS/EIR responds to BLM’s responsibility under FLPMA to consider ROW applications (43 CFR §2804.25). The BLM properly established the purpose and need for the DQSP Final PA/EIS/EIR.

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